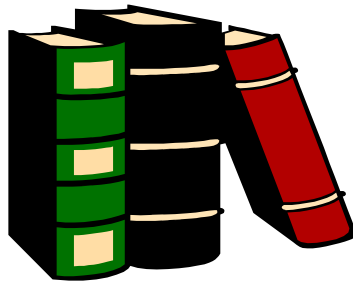




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LAW ON AMENDMENTS TO THE CRIMINAL CODE OF THE BRCKO DISTRICT OF BOSNIA AND HERZEGOVINA

**“Official Gazette of the Brcko District of Bosnia and
Herzegovina”, 50/18**

**Criminal Code of the Brcko District of Bosnia and Herzegovina was published in the “Official
Gazette of the Brcko District of Bosnia and Herzegovina”, 10/03.**

Pursuant to Article 22 of the Statute of the Brčko District of BiH – Consolidated text (“Official Gazette of the Brčko District of BiH No. 2/10) the Assembly of the Brčko District of BiH, at the 36th regular session held on 14th November 2018, hereby adopts the

LAW

ON AMENDMENTS TO THE CRIMINAL CODE OF THE BRCKO DISTRICT OF BIH

Article 1

In the Criminal Code of the Brčko District of BiH (“Official Gazette of the Brčko District of BiH”, No. 33/13 – Consolidated text and nos. 26/16 and 13/17), Article 41a shall be deleted.

Article 2

In Article 44, paragraph (1) shall be amended to read:

“(1) When the court assesses and imposes imprisonment up to one year, it may order, at the proposal of the defendant or his attorney, so that such imposed punishment, be replaced with community service.”

Article 3

In Article 55, after paragraph (2) new paragraphs (3) and (4) shall be added to read:

“(3) If the continued criminal offence includes different forms of the same offense, the continued criminal offence shall be legally qualified as the most serious of those criminal offenses.

(4) Criminal offence that is not included in the continued criminal offence shall in final court judgment constitute the separate criminal offence or shall be included in the separate continued criminal offense.”

Current paragraph (3) shall become paragraph (5).

Article 4

In Article 71, after the line d), new lines e), f), g) and h) shall be added to read:

“e) Prohibition to attend certain sporting events;
f) Prohibition to approach or contact certain person;
g) Mandatory psychosocial treatment;
h) Removal from joint household.”

Current line e) shall become line i).

Article 5

After Article 77, new articles 77a, 77b, 77 c and 77d shall be added to read:

“Prohibition to attend certain sporting events

Article 77a

- (1) The court may pronounce the security measure of prohibition to attend certain sporting events against the perpetrator of a criminal offense when it is necessary for the protection of general security.
- (2) The measure referred to in paragraph (1) of this Article shall be executed in such way that the perpetrator of a criminal offense shall be obligated to report in person to the official person in the police station in which the perpetrator is at the moment immediately before the commencement of certain sporting events, or to stay in their premises during the sporting event.
- (3) The court shall define the duration of the measure referred to in paragraph (1) of this Article, which shall not be shorter than one year and shall not exceed five years, provided that the time spent in the prison shall not be included in the time of duration of this measure.
- (4) If the court pronounces a suspended sentence, the court shall define that such sentence shall be revoked if the perpetrator violates the prohibition to attend certain sporting events, i.e. if he/she fails to do the duty referred to in paragraph (2) of this Article.
- (5) Mandatory prohibition to attend certain sporting events can be ordered by law.

Prohibition to Approach or Contact Certain Person

Article 77b

- (1) The court may for a period of time prohibit a perpetrator of a criminal offence with elements of violence approaching or contacting damaged person to a certain distance, to prohibit him access to a space around the place of living or place of work, i.e. further communication with the damaged person, if it reasonably can be expected that further carrying out of such activities be perpetrator of the criminal offence would be dangerous for the damaged person.
- (2) By security measure referred to in paragraph (1) of this Article, the perpetrator of the criminal offence may be prohibited from approaching or contacting another person, if such conduct of the perpetrator would constitute psychological harassment of the damaged person.
- (3) The court shall define the duration of this security measure that may not be shorter than six months or exceed two years, counting from the day of finality of the judgment, provided that the time spent in serving the sentence of imprisonment, or in the health institution for safeguarding and medical treatment, shall not be included in the duration of this measure.
- (4) If the perpetrator in the duration of the probation period ordered by the suspended sentence violates the prohibition to approach or contact referred to in paragraphs (1) and (2) of this Article, the court shall revoke the suspended sentence and pronounce the established punishment.
- (5) If the perpetrator in the duration of the probation period violates the prohibition to approach or contact referred to in paragraphs (1) and (2) of this Article, the suspended sentence shall be revoked.

Mandatory Psychosocial Treatment

Article 77c

- (1) The court may pronounce against a perpetrator of a criminal offence with elements of violence the mandatory psychosocial treatment, if it finds on the basis of the previous life of the perpetrator and psychiatric characteristics of his/her personality that there is danger that he/she shall repeat such or similar offence and that the psychosocial treatment is required for the elimination of this danger.
- (2) The court shall define the duration of this security measure that may not be shorter than six months or exceed two years, counting from the day of finality of the judgment.
- (3) If this measure is pronounced along with the sentence of imprisonment, it shall be served in the institution for serving the imprisonment sentence. If the convicted person, after being released to conditional release, does not continue with serving this measure in another appropriate institution, the conditional release shall be revoked.
- (4) If the perpetrator of a criminal offence does not undergo the mandatory psychosocial treatment during a probation period, the court shall revoke the suspended sentence and pronounce the defined sentence.

Removal from Joint Household
Article 77d

- (1) The court may pronounce against a perpetrator of a criminal offence with elements of violence against the person with whom he/she lives in the joint household the security measure of removal from the joint household if there is a high degree of danger that the perpetrator shall repeat the violence against the member of the joint household and that for the elimination of this danger his/her removal from the joint household is necessary.
- (2) The court shall define the duration of this security measure that may not be shorter than six months or exceed two years, and the time spent in serving the imprisonment sentence or in the institution for medical treatment shall not be included in its duration.
- (3) If the convicted person fails to act in accordance with this security measure or violates it, the conditional release shall be revoked.
- (4) The perpetrator of this criminal offence against whom this security measure has been pronounced shall be obliged to leave immediately after the sentence becomes final, in presence of the police official, the apartment, house or other living space that constitutes the joint household with the victim.
- (5) Person removed from a household shall be obliged to contribute to sustenance of persons who left in the household, in a way ordered by the court.”

Article 6

In Article 78, after paragraph (4), new paragraph (5) shall be added to read:

“(5) Forfeited objects and funds shall become the ownership of the Brčko District.”

Article 7

After Article 179, new articles 179a and 179b shall be added to read:

“Torture and Other Cruel, Inhuman or Degrading Treatment
Article 179a

- (1) An official in the institutions of the Brčko District of Bosnia and Herzegovina or any other person acting in the capacity of an official in the institutions of the Brčko District of Bosnia and Herzegovina who, acting upon the order, instigation or with the explicit or implicit consent of an official person in the institutions of the Brčko District of Bosnia and Herzegovina or any other person acting in the capacity of an official in the institutions of the Brčko District of Bosnia and Herzegovina, inflicts on a person physical or mental pain or severe physical or mental suffering for such purposes as to obtain from him or a third person information or a confession, or to punish him for a criminal offence he or a third person has perpetrated or is suspected of having perpetrated or who intimidates or coerces him for any other reason based on discrimination of any kind, shall be punished by imprisonment for a term between one and eight years.
- (2) The punishment referred to in paragraph (1) of this Article shall also be pronounced against an official in the institutions of the Brčko District of Bosnia and Herzegovina or any other person acting in the capacity of an official in the institutions of the Brčko District of Bosnia and Herzegovina who ordered or instigated the perpetration of the criminal offense, or who gave his explicit consent or knew about and implicitly consented with the perpetration of the criminal offense referred to in paragraph (1) of this Article.

Forced Disappearance
Article 179b

- (1) An official in the institutions of the Brčko District of Bosnia and Herzegovina or any other person acting in the capacity of an official in the institutions of the Brčko District of Bosnia and Herzegovina who, acting upon the order, instigation or with the explicit or implicit consent of a official person in the institutions of the Brčko District of Bosnia and Herzegovina, incarcerates another person, keeps him/her incarcerated or deprives him/her of freedom of movement and in the process refuses to admit that he deprived him/her of freedom or withholds information on destiny or location of such person thus putting him/her outside the protection of the law, shall be punished by imprisonment for a term of not less than eight years.
- (2) The punishment referred to in paragraph (1) of this Article shall also be pronounced against an official in the institutions of the Brčko District of Bosnia and Herzegovina who ordered or instigated the perpetration of the criminal offense, or who gave his explicit consent or knew about and implicitly consented with the perpetration of the criminal offense referred to in paragraph (1) of this Article.
- (3) Whoever, as a superior, knew about or consciously neglected an information that his subordinate perpetrator had perpetrated the criminal offense referred to in paragraph (1) of this Article or that he is about to perpetrate the criminal offense, and who was responsible and had the control over the actions related to perpetration of the criminal offense referred to in paragraph (1) of this Article, but did not take all required and reasonable measures within his power to prevent or disenable the perpetration of the criminal offense referred to in paragraph (1) of this Article, or to refer that issue to the state authorities for the investigation and criminal prosecution, shall be punished by imprisonment for a term of not less than eight years.
- (4) The fact that a person acted pursuant to an order of a Government or of a superior shall not relieve him of guilt, but may have effect on mitigation of punishment.”

Article 8

In Article 200, paragraph (1), the wording: “one” shall be replaced with wording: “three”.

Article 9

In Article 201, paragraph (1), the wording: “one to eight” shall be replaced with wording: “two to ten”.

In paragraphs (2) and (3), the wording: “one to ten” shall be replaced with wording: “three to fifteen”.

In paragraph (5), the wording: “from one to ten” shall be replaced with wording: “for at least five”.

In paragraph (6), the wording: “three years” shall be replaced with wording: “ten years”.

Article 10

In Article 204, paragraph (1), the wording: “one to eight” shall be replaced with wording: “two to ten”.

In paragraph (2), the wording: “three” shall be replaced with wording: “eight”.

In paragraph (3), the wording: “from one to ten” shall be replaced with wording: “from five to fifteen”.

In paragraph (4), the wording: “five” shall be replaced with wording: “eight”.

In paragraph (5), the wording: “five” shall be replaced with wording: “ten”.

Article 11

In Article 218, paragraph (1), the wording: “one” shall be replaced with wording: “three”.

Article 12

After Article 235, new Article 235a shall be added to read:

”Abuse of Office by Responsible Person Article 235a

(1) A responsible person who, by taking advantage of his office or official authority, by exceeding the limits of his official authority or by failing to execute his official duty, and thereby acquires an illegal benefit to himself or to another natural or legal person, or causes material damage to another person, if by that the characteristics of another criminal offense have not been achieved, shall be punished by imprisonment for a term between six months and three years.

(2) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph (1) of this Article exceeds the amount of KM 10.000, the perpetrator shall be punished by imprisonment for a term between one and five years, and if it exceeds the amount of KM 50.000, by imprisonment for a term between two and ten years.”

Article 13

In Article 246a, the title and the text of the Article shall be amended to read:

“Acceptance of Gift or other Benefit in Performance of an Economic or other Activity

Article 246a

- (1) Whoever, while performing economic or other activity for themselves or for others, directly or indirectly, demands or accepts a gift or other benefit, or who accepts the promise of a gift or other benefit in order to conclude a contract or to achieve a business agreement or to render a service or to refrain from such action, or by violation of other duties in performance of an economic or other activity to the detriment or to the benefit of a business entity or other legal person for which they work or in which they work or another person, shall be punished by imprisonment for a term between one and eight years.
- (2) The perpetrator referred to in paragraph (1) of this Article who, after having concluded a contract or after having a service rendered or refraining from such action, for themselves or for others, demands or accepts a gift or other benefit or who accepts the promise of a gift or other benefit, shall be punished by imprisonment for a term between six months and five years.
- (3) The accepted gift and property gain shall be confiscated.”

Article 14

In Article 246b, the title and the text of the Article shall be amended to read:

“Giving a Gift or other Benefit in Performance of an Economic or other Activity
Article 246b

- (1) Whoever, directly or indirectly gives, offers or promises a gift or other benefit to a person in order that that person, in performance of an economic or other activity, concludes a contract or achieve a business agreement or render a service or to refrain from such action or violates other duties in performance of an economic or other activity to the detriment or to the benefit of an entity of economic or other business for which they work or in which they work or to the detriment or benefit of other legal or natural person or whoever intercedes in such giving of gifts or other benefits, shall be punished by imprisonment for a term between six months and five years.
- (2) The perpetrator of the criminal offence referred to in paragraph (1) of this Article who had given a gift or other benefit of on request a person in order that that person, in performance of an economic or other activity, concludes a contract or achieve a business agreement or render a service or violate the duty, and have the reported the offence before it has been discovered or before knowing that the offence has been discovered, may be released from punishment.
- (3) The given gift and property gain referred to in paragraphs (1) and (2) of this Article shall be confiscated.”

Article 15

In Article 346, the title and the text of the Article shall be amended to read:

“Disclosure of Identity of a Protected Witness
Article 346

A judge of the Court of Brčko District Bosnia and Herzegovina or other official person who participated in hearing of the protected witness in a criminal proceeding conducted pursuant to

the law of Brčko District of Bosnia and Herzegovina, who makes available to an unauthorized person data on the identity of a protected witness, shall be sentenced with six months to five years in prison.”

[Translator’s remark: N/A to English translation]

Article 16

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

Article 17

The Legislative Commission of the Assembly of the Brčko District of Bosnia and Herzegovina is hereby obliged to establish the Consolidated Version of the Criminal Code of the Brčko District of Bosnia and Herzegovina within ninety (90) days from the day of promulgation of this Law in the “Official Gazette of the Brčko District of BiH”.

Number: 01-02-474/18

Brčko, 14. 11. 2018

SPEAKER OF THE
ASSEMBLY OF THE BRČKO
DISTRICT OF BiH

Esed Kadrić