

UNOFFICIAL, CONSOLIDATED VERSION

(“Official Gazette” of Bosnia and Herzegovina, 29/00, 16/02, 24/02, 3/03, 37/03, 42/03, 4/04, 9/04, 35/04, 61/04, 32/07)

Pursuant to Article IV.4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the session of the House of Representatives, held on 18 June, 2004 and at the session of the House of Peoples, held on 3 July 2002, adopted

LAW ON COURT OF BOSNIA AND HERZEGOVINA¹

GENERAL PART

Article 1 Establishment

1. In order to ensure the effective exercise of the competencies of the State of Bosnia and Herzegovina and the respect of human rights and the rule of law in the territory of this State, a Court of Bosnia and Herzegovina (hereinafter the “Court”) is established.
2. The seat of the Court shall be at Sarajevo.

Article 2 Composition

1. *The Court shall be composed of a President and a number of other judges as further defined by this law.*

Articles 3-8
deleted (Law on High Judicial and Prosecutorial Council of BiH (23.05.2002) – Article 73)

Article 9 Language

1. The official languages of Bosnia and Herzegovina, Bosnian, Croat and Serb, and the official alphabets, Latin and Cyrillic, shall be used in the proceedings before the Court and in its communication with the parties. Persons participating in proceedings have the right to use any of these languages at any stage of the proceedings.
2. (deleted)

Article 10

¹ High Representative imposed Law on Court of Bosnia and Herzegovina. This law has been adopted by Bosnia and Herzegovina Parliamentary Assembly and published in the Official Gazette of Bosnia and Herzegovina 16/02; {Law on Amendments to the Law on the Court of BiH (“Official Gazette” of BH 24/02, “Official Gazette” of the FBH 43/02, “Official Gazette” of the RS 55/02, “Official Gazette” of Brcko District, 14/02) – italic, Law Re-amending the Law on the Court of BiH (“Official Gazette” of Bosnia and Herzegovina 3/03) – underline} - these two laws have been adopted by BiH Parliamentary Assembly and published in the Official Gazette of Bosnia and Herzegovina 42/03, Law on further re-amending the Law on Court of Bosnia and Herzegovina (“Official Gazette” of Bosnia and Herzegovina 37/03) – italic, underline – this law has been adopted by BiH Parliamentary Assembly and published in the Official Gazette of Bosnia and Herzegovina 9/04, Law on Amendments to the Law on the Court of BiH (“Official Gazette” of Bosnia and Herzegovina, 4/04) – bold, Law on Amendments to the Law on the Court of BiH (“Official Gazette” of Bosnia and Herzegovina, 35/04) – bold, italic, Law on Amendments to the Law on the Court of BiH (“Official Gazette” of Bosnia and Herzegovina, 61/04) – bold, underline. Law on application of the Law on Amendments to the Law on Court of Bosnia and Herzegovina published in the Official Gazette of BiH 4/04, was published in the Official Gazette of BiH 32/07.

Rules of procedure

1. The Rules of procedure of the Court shall regulate procedures before all divisions of this Court to the extent not otherwise regulated in laws referred to in this law. They have to follow the minimum procedural guarantees as provided for by law.
2. The Rules of procedure of the Court shall be published in the Official Gazette of Bosnia and Herzegovina.

Article 11 The Budget of the Court

1. The Court shall have its own budget, which shall be included in the budget of Bosnia and Herzegovina. *Before the commencement of the budget year, the President of the Court shall present a budget proposal to High Judicial and Prosecutorial Council of Bosnia and Herzegovina. The President of the Court has the right to attend and to defend the High Judicial and Prosecutorial Council proposal at the sessions of the Parliamentary Assembly and its relevant committees whenever budgetary matters affecting the Court are discussed or decided.*
2. The President of the Court, assisted by the Chief Registrar, shall be responsible for preparing and implementing the budget of the Court.
3. **The Court Budget shall include separate items specifying the budget requirements for the work of Section I for War Crimes and Section II for Organized Crime, Economic Crime and Corruption of the Criminal and Appellate Divisions (hereinafter “Section I and Section II of the Criminal and Appellate Divisions”).**
4. *At the end of each budgetary year, the President of the Court shall inform the Parliament of Bosnia and Herzegovina of the execution of the budget of the Court.*

Article 12 Attorneys

1. To appear or practice before the Court, an attorney must be licensed to practice by an authority in Bosnia and Herzegovina which has been recognized by the Court.
2. An attorney who does not fulfil the requirements under paragraph 1 may be specially admitted by the Court. Procedures for special admission of attorneys and for recognition of licensing authorities for attorneys shall be established by the Court in its Rules of procedure.
3. The Court shall have authority to regulate in its Rules of procedure the qualification and practice of all attorneys before it, specifically including the authority to impose sanctions upon any attorney who appears before it, regardless of any other affiliation of the attorney.
4. Such sanctions may include suspension or disablement from practice before the Court, and such other sanctions as may be provided by law or prescribed in the Court's Rules of procedure.
5. **The Registry for Section I and Section II of the Criminal Division and Section I and Section II of the Appellate Division (hereinafter “the Registry for Section I and Section II”) may issue additional rules for attorneys who appear before Section I and Section II of the Criminal and Appellate Divisions which shall become an integral part of the Rules of Procedure of the Court**

JURISDICTION

Article 13 Criminal Jurisdiction

1. The Court has jurisdiction over criminal offences defined in the Criminal Code of Bosnia and Herzegovina and other laws of Bosnia and Herzegovina.

2. The Court has further jurisdiction over criminal offences prescribed in the Laws of the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brcko District of Bosnia and Herzegovina when such criminal offences:
 - a) endanger the sovereignty, territorial integrity, political independence, national security or international personality of Bosnia and Herzegovina;
 - b) may have serious repercussions or detrimental consequences to the economy of Bosnia and Herzegovina or may have other detrimental consequences to Bosnia and Herzegovina or may cause serious economic damage or other detrimental consequences beyond the territory of an Entity or the Brcko District of Bosnia and Herzegovina.
3. The Court shall further be competent to
 - a) take a final and legally binding position on the implementation of Laws of Bosnia and Herzegovina and international treaties on request by any court of the Entities or any court of the Brcko District of Bosnia and Herzegovina entrusted to implement the Law of Bosnia and Herzegovina;
 - b) **The Court shall further be competent to issue practice directions on the application of the substantive criminal law of Bosnia and Herzegovina falling within the competence of the Court on genocide, crimes against humanity, war crimes and violations of the laws and practices of warfare and individual criminal responsibility related to those crimes, *ex officio* or on the request by any court of the Entities or of the Brcko District of Bosnia and Herzegovina.**
 - c) decide any issue relating to International and inter-Entity criminal law enforcement, including relations with Interpol and other international police institutions, such as decisions on the transfer of convicted persons, and on the extradition and surrender of persons, requested from any authority in the territory of Bosnia and Herzegovina, by foreign States or International Courts or Tribunals;
 - d) decide any conflict of jurisdiction between the courts of the Entities, between the Courts of the Entities and the Courts of the Brcko District of Bosnia and Herzegovina and between the Court of BiH and any other Court;
 - e) decide on the reopening of criminal proceedings for criminal offences prescribed in the Laws of Bosnia and Herzegovina.

Article 14 Administrative Jurisdiction

1. The Court is competent to decide actions taken against final administrative acts or silence of administration of the institutions of Bosnia and Herzegovina and its bodies, Public Agencies, Public Corporations, institutions of the Brcko District and any other organisation as provided by State Law, acting in the exercise of a public function.
2. The Court shall have, in particular, jurisdiction over the following:
 - a) The assessment of the legality of individual and general enforceable administrative acts adopted under State law, performed in the exercise of public functions by the authorities listed in paragraph 1 of this Article, for which judicial review is not otherwise provided by law;
 - b) Property disputes between the State and the Entities, between the State and the Brcko district, between the Entities, between the Entities and the Brcko district and between the institutions of Bosnia and Herzegovina, which are interrelated with the exercise of public functions.
 - c) Conflict of jurisdiction between the courts from the Federation of Bosnia and Herzegovina and Republika Srpska, and between the courts of the Entities and the courts of the Brcko district and between the Court of Bosnia and Herzegovina and any other court.
 - d) Reopening of proceedings in disputes listed under items a) and b) of this Article.

Article 15

Appellate Jurisdiction

1. The Court shall decide the following:
 - a) appeals against a judgement or decision delivered by the Criminal Division of this Court.
 - b) appeals against a judgement or decision delivered by the Administrative Division of this Court.;
 - c) extraordinary legal remedies against final judgments reached by the divisions of the Court, not including those that constitute the requests for reopening of proceedings.
2. The Court shall also have jurisdiction over:
 - a) complaints concerning violations of the electoral code and the additional regulations and directives issued by the Permanent Election Commission;
 - b) any other case for which competence is provided by the laws of Bosnia and Herzegovina.

Articles 16-18

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STRUCTURE OF THE COURT

Article 19

Structure of the Court

1. The Court shall have a Plenum and three Divisions.
2. The Divisions are:
 - a) the Criminal Division;
 - b) the Administrative Division;
 - c) the Appellate Division (including the Electoral appeals competence).
3. **The Criminal Division and the Appellate Division shall each have three Sections as defined by this Law.**
4. The President of the Court in accordance with its Rules of procedure shall be competent to make general and special assignment of judges to any Division, Panel or case *except when otherwise defined by law.*
5. **(deleted)**
6. **(deleted)**

Article 20

-deleted- (Law on High Judicial and Prosecutorial Council of BiH (23.05.2002) – Article 73)

Article 21

Competencies of the President of the Court

1. The President of the Court is responsible for:
 - a) representing the Court in its external relations with state bodies and organizations;
 - b) **the appointment of judges to the different divisions and panels unless otherwise defined by this Law;**
 - c) the appointment of the replacing judge in case of disqualification of a judge *as agreed by the Plenum of the Court;*
 - d) setting the time table for sessions, handling cases and distributing the cases between the members of the Court and where necessary between the Divisions;

- e) summoning and presiding at the Plenum of the Court;
 - f) the implementation of the budget of the Court;
 - g) performing general administration of the staff of the Court;
 - h) instituting disciplinary proceedings against the Chief Registrar.
2. The President shall propose to the Plenum of the Court the working schedule elaborated at the beginning of each calendar year, providing for the allocation of incoming cases in advance and according to objective criteria.

Article 22
The Plenum of the Court

1. The Plenum of the Court shall consist of all members of the Court. The Plenum adopts its decision with a simple majority of all judges of the Court.
2. The Plenum of the Court:
- a) deleted (Law on High Judicial and Prosecutorial Council of BiH (23.05.2002) – Article 73)
 - b) Shall draw up and adopt the rules of procedure of the Court;
 - c) **shall draw up and adopt the rules of procedure of Section III of the Criminal and Appellate Divisions and of the Administrative Division;**
 - d) Shall elect the Chief Registrar;
 - e) Shall adopt the working schedule proposed by the president;
 - f) deleted (Law on High Judicial and Prosecutorial Council of BiH (23.05.2002) – Article 73)
 - g) deleted (Law on High Judicial and Prosecutorial Council of BiH (23.05.2002) – Article 73)
 - h) Shall adopt the draft budget of the Court.

Article 23
The Divisions of the Court

- 1. The Administrative Division shall consist of at least five judges.
- 2. The Criminal Division shall consist of at least ten judges. It shall sit in panels of three judges
- 3. The Appellate Division shall consist of at least ten judges.
- 4. Panels of the Divisions shall be composed of three judges
- 5. A judge from another Division may be asked to sit in the Appellate Division.

Article 24
Criminal Division

1. **The Criminal Division shall consist of three Sections:**
- a) **Section I for War Crimes,**
 - b) **Section II for Organized Crime, Economic Crime and Corruption**
 - c) **Section III for all other crimes under the jurisdiction of the Court.**
2. **Individual judges from the respective Sections may serve as a preliminary proceeding judge or as a preliminary hearing judge.**
3. **Section III of the Criminal Division is chaired by its President who is elected by all judges of Section III, serving for a term of five years.**

Article 25
Administrative Division

1. The Administrative Division, servicing for a term of five years is chaired by a president elected by all judges of the Division.
2. Parties may not appeal against the decision accepting or rejecting the constitution of the panel, without prejudice to the right to raise objections to the decision when invoking the remedy of appeal against the final judgement.

Article 26
Appellate Division

1. The Appellate Division shall consist of three Sections:
 - a) Section I to hear appeals against judgments of Section I of the Criminal Division,
 - b) Section II to hear appeals against judgements of Section II of the Criminal Division,
 - c) Section III to hear appeals against judgements of Section III of the Criminal Division, and against judgements of the Administrative Division. Section III shall hear also complaints in electoral matters pursuant to Article 15 (2)a.
2. Section III of the Appellate Division is chaired by its President who is elected by all judges of Section serving for a term of five years.

Article 27
The Registry

1. There shall be a Common Registry and a Registry for Section I and Section II.
2. The Common Registry is responsible for the administration and servicing of Section III of the Criminal and Appellate Divisions and the Administrative Division.
3. The Common Registry is managed by a Chief Registrar, under the supervision of the President of the Court and under the conditions specified in the rules of procedure of the Court. The basic salary and benefits of the Chief Registrar shall be equivalent to 80% of the basic salary and benefits received by the judges of the Court.
4. The Chief Registrar shall be assisted by two officers.
5. The Registry for Section I and Section II is managed by a Registrar who is responsible, in cooperation with the President of the Court, for the administration and provision of support services to Section I and Section II.

Article 28
The Registrar of Section III of the Criminal Division

1. The Registrar of Section III of the Criminal Division, under the supervision of the Chief Registrar, assist the work of the judges.
2. The Registrar of Section III of the Criminal Division works on behalf of, and pursuant to, orders of Section III of the Criminal Division and a judge thereof.

Article 29
The Registrar of the Administrative Division

1. The Registrar of the Administrative Division, under the supervision of the Chief Registrar, assists the work of the judges.
2. The Registrar of the Administrative Division works on behalf of, and pursuant to, orders of the

Administrative Division and a judge thereof.

3. The Registrar shall assist the Administrative Division in the enforcement of judgements of the Administrative Division.

Article 30
The Registrar of Section III of the Appellate Division

1. **The Registrar of Section III of the Appellate Division, under the supervision of the Chief Registrar, assist the work of the judges.**
2. **The Registrar of Section III of the Appellate Division works on behalf of, and pursuant to, orders of Section III of the Appellate Division and a judge thereof.**

Article 31
Administrative staff

1. The Court shall have its own staff. The Court shall determine in respect of its staff the organizational structure in its Rules of Procedure.
2. The Court shall determine the duties and responsibilities, reasons for non-attendance, replacements, absences, and leave and holiday arrangements in respect of administrative staff.

Articles 32 – 42
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ADMINISTRATIVE PROCEDURE

Article 43
Conflicts of jurisdiction and competence

1. In cases of concurrent administrative jurisdiction between the Court of Bosnia and Herzegovina and any other Court in Bosnia and Herzegovina of the Entities and the Brcko District, primacy is given to the Court of Bosnia and Herzegovina.
2. The Court may in cases under paragraph 1 remove proceedings from and transfer the proceedings to any other court in the territory of Bosnia and Herzegovina. This decision is final and binding.

Articles 44 – 60
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APPELLATE DIVISION

Article 61
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Article 62
Procedure in electoral appeals

1. An appeal may be lodged before **Section III** of the Appeals Division against a decision of any authority in Bosnia and Herzegovina, its entities, and against of courts of last resort in the District of Brcko, within the meaning of Article 15 paragraph 2 a) and which is not subject to another ordinary appeal.
2. A complaint may be lodged by individuals, political parties and political coalitions. **Section III** of the

Appeals Division will not act on anonymous complaints. All complaints shall be made public unless, in exceptional circumstances, determined otherwise in the detailed rules of procedure.

3. The application shall be lodged in writing with a brief explanation and duly signed within 5 days from the day of the decision of the last instance concerned.
4. **Section III of** the Appellate Division shall decide on the appeal within 30 days.

Articles 63 and 64

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FINAL PART

Article 65

Transitional provisions

1. **During a transitional period, an international Registrar shall be appointed as Chief Registrar for Section I and Section II, responsible for the administration and provision of support services to Section I and Section II of the Criminal and Appellate Divisions. The transitional period shall not last more than five years.**
2. **The President of the Court, after consultation with the international Registrar shall be competent to assign judges of Section I and Section II of the Criminal and Appellate Divisions to any Chamber, or Panel. Section I and Section II Panels shall be composed of both national and international judges.**
3. **The international Registrar shall issue the Rules of Procedure for Section I and Section II of the Criminal and Appellate Divisions which shall become an integral part of the Rules of Procedure of the Court. The Registry shall establish a case allocation system for Section I and Section II of the Criminal and Appellate Divisions.**
4. **During the transitional period, a number of international judges may be appointed to Section I and Section II of the Criminal and Appellate Divisions. An international judge may be appointed to both Section I and Section II of the Criminal and Appellate Divisions. International judges shall not be citizens of Bosnia and Herzegovina or of any neighboring state.**
5. **An International judge of Section I and Section II of the Criminal and Appellate Divisions may serve as a preliminary proceeding judge, a preliminary hearing judge or as a single trial judge in proceedings before Section I and Section II of the Criminal and Appellate Divisions.**
6. **An International judge of Section I and Section II of the Criminal and Appellate Divisions may serve as a judge in the panel as referred to in Article 24 (6) of the Criminal Procedure Code of Bosnia and Herzegovina, including the panel as referred to in Article 16 of the Law on Protection of Witnesses under Threat and Vulnerable Witnesses of Bosnia and Herzegovina, in proceedings before Section I and Section II of the Criminal and Appellate Divisions.**
7. **An International judge shall not participate in the work of any panel of the Criminal, Appellate or Administrative Division other than provided for in the previous paragraphs.**
8. **An international judge shall not be criminally prosecuted, arrested or detained, nor shall he/she be liable in civil proceedings for an opinion expressed or decision made in the scope of his/her official duties.**
9. **International judges shall be authorized to use the English language in any of the proceedings of the Court of Bosnia and Herzegovina. Translation/Interpretation into one of the official languages of Bosnia and Herzegovina shall be provided by a court interpreter.**

Article 66
Publishing of the Law

1. This Law shall be published without delay in the Official Gazette of Bosnia and Herzegovina, and in the Official Gazettes of the Federation of Bosnia and Herzegovina, and of the Republika Srpska.

Article 67
Entry into force of the present Law

1. This law shall enter into force eight days after the date of its publication in the Official Gazette of Bosnia and Herzegovina.

PS BiH No. 66/02
3 July, 2002
Sarajevo

Chairman House of Representative
Parliamentary Assembly of BiH
Mariofil Ljubić

Chairman House of Peoples
Parliamentary Assembly of BiH
dr. Nikola Špirić