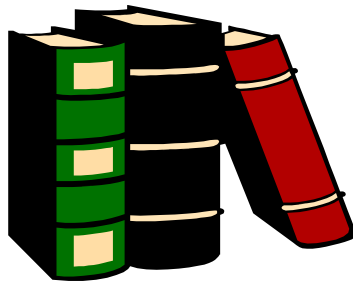




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Department for Legal Affairs



LAW ON AMENDMENTS TO THE REPUBLIKA SRPSKA CRIMINAL CODE

“Official Gazette of Republika Srpska”, 73/23

1833

Pursuant to Article 80, paragraph (1), under sub-paragraph 4) of the Republika Srpska Constitution, I have hereby enacted the following

DECREE
PROMULGATING THE LAW ON AMENDMENTS TO THE REPUBLIKA SRPSKA
CRIMINAL CODE

I hereby promulgate the Law on Amendments to the Republika Srpska Criminal Code, which was adopted by the Republika Srpska National Assembly at its Fourth Regular Session held on 20 July 2023.

By virtue of its enactment No: 03/2.01-020-344/23, of 28 July 2023, the Council of Peoples of the Republika Srpska informed the National Assembly that the said law falls within the issue of violation of the vital national interest of Bosniak people.

The Joint Committee of the Republika Srpska National Assembly and the Council of Peoples of the Republika Srpska, at its session held on 2 August 2023, in line with Amendment LXXVII failed to come to an agreement with regard to the said law, as a result of which the same law was put forward to the Council for the Protection of Vital Interest within the Republika Srpska the Constitutional Court.

The Council for the Protection of Vital National Interests within the Republika Srpska within the Constitutional Court issued a Decision under No. UV-3/23 of 8 August 2023, which found unacceptable the request filed by the Caucus of Bosniak people within the Council of Peoples of the Republika Srpska to establish the violation of vital national interest of Bosniak people in the Law on Amendments to the Criminal Code of the Republika Srpska, by way of which the formal and legal requirements have been met with regard to enacting the present Decree.

The said Decision was published in “the Republika Srpska Official Gazette”, No. 72/23 of 15 August 2023.

No: 01-020-3897/23
18 August 2023
Banja Luka

President of the Republic
Milorad Dodik, *manu propria*

LAW
ON AMENDMENTS TO THE REPUBLIKA SRPSKA CRIMINAL CODE

Article 1

In the Republika Srpska Criminal Code (“Official Gazette of the Republika Srpska”, Nos. 64/17, 104/18 – Decision of the Constitutional Court of the Republika Srpska, Nos. 15/21 and 89/21) in Article 46a, under paragraph (3), the words: „*may be replaced*“ shall be replaced with the words: “*shall be replaced*”.

As a result, paragraph (3) shall read as follows:

“(3) The sentence of imprisonment not exceeding one year shall be replaced, at the request of the convicted person, by a fine in accordance with the provisions of Article 50 paragraphs 2 and 3 of this Code.”

After paragraph (3) of this article, a new paragraph (4) shall be added to read as follows:

“(4) The provision of paragraph (3) of this article shall not be applicable to perpetrators of the criminal offences under Article 146 (Trafficking in Children), Article 147 (Associating for the Purpose of Perpetrating the Criminal Offences of Trafficking in Humans and Children), Chapter XV (CRIMINAL ACTS OF SEXUAL ABUSE AND SEXUAL EXPLOTATION OF CHILDREN), Chapter XXII (CRIMINAL OFFENCES AGAINST THE CONSTITUTIONAL ORDER AND SECURITY OF THE REPUBLIKA SRPSKA), Chapter XXIII (CRIMINAL OFENCES OF TERRORISM), as well as to the perpetrators who have previously been convicted of the same kind of criminal offense twice or more times.”

Article 2

In Article 50, under paragraph (2), the amount of “BAM 50” shall be replaced with the amount of “BAM 100”.

Article 3

In Article 59, under paragraph (2), the amount of “BAM 50” shall be replaced with the amount of “BAM 100”.

Article 4

After Article 156, the article title and the new article 156a shall be added to read as follows:

“Unauthorized Publication and Display of Another Person’s Document, Portrait and Recording

Article 156a.

(1) Whoever publishes or displays a document, portrait, photograph, video recording, film or phonogram of a personal nature, without the consent of the person who compiled the document or the person who is affected by the document, i.e. without the consent of the person shown in the portrait, photograph, video or film or whose voice is recorded on a phonogram or without the consent of another person whose consent is otherwise required by law, and such publication or display has had or could have had harmful consequences for the personal life of that person, shall be fined or punished by imprisonment for a term not exceeding two years.

(2) If the act referred to in paragraph (1) of this article has been committed against a member of the family or the family unit or against another person with the intention of causing damage to that person’s reputation, the perpetrator shall be punished by imprisonment for a term between six months and three years.

(3) If, as a result of the act referred to in paragraphs (1) or (2) of this article, a serious damage has been caused to the health of the person whose document, portrait or recording was published, the perpetrator shall be punished by imprisonment for a term between one and five years, whereas if the act has led to death, the perpetrator shall be punished by imprisonment for a term between two and ten years.”

Article 5

Article 170 shall be amended to read as follows:

“(1) Whoever is engaged in sexual harassment of another person, shall be fined or punished by imprisonment for a term not exceeding one year.

(2) If the act referred to in paragraph (1) of this article has been committed against a person who is his/her subordinate or who is in a situation of dependence with respect to the perpetrator, or who is particularly vulnerable due to his/her age, illness, disability, addiction, pregnancy, serious physical or mental disorder, the perpetrator shall be punished by imprisonment for a term not exceeding two years.

(3) If sexual harassment has been committed by using a computer network or some other form of communication, the perpetrator shall be punished by imprisonment for a term between six months and three years.

(4) Sexual harassment shall include any verbal, non-verbal or physically unwanted behaviour of a sexual nature aimed at violating the dignity of a person in the sphere of sexual life, which causes fear or creates an intimidating, hostile, degrading or offensive environment.”

Article 6

After Article 170, the article title and the new article 170a. shall be added to read as follows:

“Misuse of Photos and Videos of Sexually Explicit Content

Article 170a.

(1) Whoever abuses a relationship of trust and without the consent of another person makes available to a third party a photograph or recording of sexually explicit content that was made with the consent of that person for personal use and thus violates the privacy of that person, shall be punished by imprisonment for a term not exceeding two years.

(2) Whoever creates a new or modifies an existing photograph or recording of sexually explicit content of another person and uses that recording as an authentic one and thus violates the privacy of another person, shall be punished with the penalty referred to in paragraph (1) of this article.

(3) If the criminal offense referred to in paragraphs (1) and (2) of this article has been perpetrated through the use of a computer system or computer network or in another way that makes it possible for a photograph or recording to become available to a considerable number of persons, the perpetrator shall be punished by imprisonment for a term between one and three years.

(4) The photographs and recordings or the means used for the perpetration of the criminal offense referred to in this article shall be confiscated.”

Article 7

In Article 186, under paragraph (1), the words: “shall be fined or punished by imprisonment for a term not exceeding two years”, shall be replaced by the words: “shall be punished by imprisonment for a term between one and five years”.

In paragraph (2), the words: “between one and eight years” shall be replaced by the words: “between two and ten years”.

In paragraph (3), the words: “shall be fined or punished by imprisonment for a term not exceeding one year” shall be replaced with the words: “shall be punished by imprisonment for a term not exceeding one year.”

Paragraph (4) shall be deleted.

Article 8

After Article 208, a new CHAPTER XVIIa CRIMINAL OFFENSES AGAINST HONOR AND REPUTATION, including the titles of articles and the new Articles 208a, 208b, 208v, 208g, 208d. and 208đ, shall be added to read as follows:

“CHAPTER XVIIa CRIMINAL OFFENSES AGAINST HONOR AND REPUTATION

Defamation Article 208a

(1) Whoever states or disseminates something untrue concerning another person that may harm his honour or reputation, knowing that what he states or disseminates is untrue, by identifying that person to third parties in a clear way, thus causing a damage to the honour and reputation of that person, shall be fined in an amount ranging between BAM 1,000 and BAM 3,000.

(2) If the act referred to in paragraph (1) of this Article had been committed through the press, radio, television, computer network or other forms of communication, at a public meeting or in another way, due to which it became available to a considerable number of persons, the perpetrator shall be fined in an amount ranging between BAM 2,000 to BAM 5,000.

(3) If what is stated or disseminated has led or could have led to serious consequences for the injured party, the perpetrator shall be fined in an amount ranging from BAM 3,000 to BAM 6,000.

Disclosure of Personal and Family Circumstances Article 208b

(1) Whoever discloses or disseminates anything from the personal or family life of a person that may harm the person’s honour or reputation, which is not, nor could represent the facts

that are of legitimate interest, shall be fined in an amount ranging between BAM 1,000 and BAM 3,000.

(2) If the act referred to in paragraph (1) of this Article had been committed through the press, radio, television, computer network or other forms of communication, at a public meeting or in another way, due to which it became available to a considerable number of persons, the perpetrator shall be fined in an amount ranging between BAM 2,000 and BAM 5,000.

(3) If what is disclosed or disseminated has led or could have led to serious consequences for the injured party, the perpetrator shall be fined in an amount ranging between BAM 3,000 and BAM 6,000.

(4) The veracity or falsity of the matter disclosed or disseminated about the personal or family life of a person shall not be subject to proving.

Public Exposure to Ridicule on Account of Affiliation with a Particular Race, Religion or Nationality

Article 208v

Whoever publicly exposes to ridicule or contempt a person or group on account of his or her affiliation with a certain race, religion, nationality or on account of ethnic origin, skin colour or sex, shall be fined in an amount ranging between BAM 2,000 and BAM 6,000.

Exclusion of Illegality of the Criminal Offenses against Honour and Reputation

Article 208g

An act shall not constitute a criminal offense described under Article 208a and Article 208b of this Code in the event that it involves making a statement of something untrue in a scientific, professional, literary or artistic work, in the performance of a duty prescribed by law, in a journalistic profession, political or other public or social activity or in defending a right, if it arises from the way in which such statements are expressed or from other circumstances that such an action has not been undertaken with the intention of disparagement, or if the person proves the veracity of his or her statement, or that the person had a well-founded reason to believe in the veracity of what he or she has stated or disseminated.

Prosecution for the Crimes Against Honour and Reputation

Article 208d

(1) Prosecution for the acts referred to in articles 208a to 208b of this Code shall be instituted following a motion.

(2) If the acts referred to in articles 208a to 208b of this Code have been committed against a deceased person, the prosecution shall be instituted following a motion filed by a spouse or a person who lived with the deceased in a permanent common-law marriage, by relatives in the direct line, by an adoptive parent, adopted child, siblings (brother or sister) of the deceased person.

Public Disclosure of the Judgment for Criminal Offenses against Honour and Reputation

Article 208d

(1) The judgment declaring the perpetrator guilty of a criminal offense against honour and reputation committed through the press, radio, television, computer system or network or other means of public information or communication, shall be published entirely or in part at the expense of the perpetrator.

(2) In the judgment, the court shall determine the method of its publication, whereas, whenever possible, the court shall determine that it shall be published in the same means of public information or communication through which the criminal offense was committed, in the identical format and duration compared with the action of the offence perpetration.”

Article 9

The title of Article 225 shall be amended to read as follows:

“Theft of Electricity or Heat Energy or Natural Gas”

Paragraph 1 shall be amended to read as follows:

“(1) Whoever, contrary to the applicable regulations, connects any electric facilities, devices or installations to the power grid, consumes electricity or heat energy or natural gas without the operation of any prescribed metering devices or through bypassing these metering devices or consumes electricity or heat energy or natural gas in another way without authority, shall be punished by imprisonment for a term between three months and three years and shall be fined.”

Article 10

In Article 330, under paragraph (1), the words: “with the purpose of obtaining illegal property gain for himself/herself or another person” shall be replaced with the words: “with the purpose of appropriating this item illegally.”

Article 11

The title and wording of Article 340 shall be amended to read as follows:

“Violating the Court’s Reputation and Reputation of the Parties to the Proceedings

(1) Whoever, during the course of proceedings before the court, holds in contempt a court of law or a judge, a public prosecutor or an attorney, or whoever perpetrates this act through a written submission filed to the Court, shall be fined or punished by imprisonment for a term not exceeding one year.

(2) If the act referred to in paragraph (1) of this article has been committed in a particularly inappropriate manner or its offensive expression was of such significance that it has led or could have led to more serious adverse consequences for the injured party, the perpetrator shall be fined or punished by imprisonment for a term not exceeding two years.”

Article 12

This Law shall enter into force on the eighth day following its publication in “the Republika Srpska Official Gazette”.

No. 02/1-021-812/23
20 July 2023
Banja Luka

President
of the National Assembly
Dr. **Nenad Stevandić**, *manu propria*
