“Official Gazette” of Bosnia and Herzegovina, 49/09

Pursuant to the powers given by the House of Representatives, No. 01-50-1-15-40/08 dated 8 December 2008, and the powers given at the 23rd session of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina dated 4 Dec. 2008; and Article 41(1)i) of the Rules of Procedure of the House of Representatives and Article 26(1)i) of the Rules of Procedure of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina, the Constitutional Law Committees of both houses of the Bosnia and Herzegovina Parliamentary Assembly at the second joint session held on 18 May 2009 agreed on the consolidated text of the Law on the Court of Bosnia and Herzegovina (Official Gazette of BiH, No. 29/00, 16/02, 24/02, 3/03, 37/03, 42/03, 4/04, 9/04, 35/04, 61/04 and 32/07) identifying the dates of entering into force of the law and its amendments.

LAW ON COURT OF BOSNIA AND HERZEGOVINA
- CONSOLIDATED VERSION -

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

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

Article 3
Language

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.

Article 4
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 5
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 the 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 6
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 discretion to impose sanctions upon any attorney who appears before it.

(4) Such sanctions may include suspension or disablement from practice before the Court, and any 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 7
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 Brčko 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 Brčko District of Bosnia and Herzegovina.

(3) The Court shall have further jurisdiction as follows:
   a) to 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 Brčko District of Bosnia and Herzegovina entrusted to implement the Law of Bosnia and Herzegovina;
   b) 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 at the request by any court of the Entities or of the Brčko 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 Brčko 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 8
Administrative Jurisdiction

(1) The Court has jurisdiction 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 Brčko 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 Brčko District, between the Entities, between the Entities and the Brčko District and between the institutions of Bosnia and Herzegovina, which are interrelated with the exercise of public functions.
   c) Conflict of jurisdiction between the Entity courts, and between the courts of the Entities and the courts of the Brčko 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 9
Apellate 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 Central Election Commission;
   b) any other case for which competence is provided by the laws of Bosnia and Herzegovina.

STRUCTURE OF THE COURT

Article 10
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.

Article 11
Responsibilities 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) convening 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 12
The Plenum of the Court

(1) The Plenum of the Court shall consist of all judges of the Court. The Plenum adopts its decisions with a simple majority of all judges of the Court.
(2) The Plenum of the Court shall:
a) draw up and adopt the rules of procedure of the Court;
b) draw up and adopt the rules of procedure of Section III of the Criminal and Appellate Divisions and of the Administrative Division;
c) elect the Chief Registrar;
d) adopt the working schedule proposed by the president;
e) adopt the draft budget of the Court.

Article 13
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.
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 14
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.

Article15
Administrative Division

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

the final judgement.

Article 16
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 17
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 of the Criminal and Appellate Divisions.

Article 18
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 the judges thereof.

Article 19
The Registrar of Section III 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 the judges thereof.
(3) The Registrar shall assist the Administrative Division in the enforcement of judgements of the Administrative Division.

Article 20
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, assists 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 the judges thereof.

Article 21
Administrative staff

(1) The Court shall have its own Administration. In respect of its staff, the Court shall determine the organizational structure of Administration 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.

ADMINISTRATIVE PROCEDURE

Article 22
Conflict of jurisdiction

(1) In cases of concurrent administrative jurisdiction between the Court of Bosnia and Herzegovina and any other Court in Bosnia and Herzegovina, the Entities and the Brčko 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.

APPELLATE DIVISION

Article 23
Procedure in electoral appeals

(1) An appeal may be filed 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 Brčko, in terms of Article 15 paragraph 2 a), if it 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 within 15 days of the day of the last-instance decision .
(4) Section III of the Appellate Division shall decide on the appeal within 10 days.

FINAL PART

Article 24
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 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 proceedings 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 25
Publishing of the Law

This consolidated 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, the Republika Srpska and the Brčko District of Bosnia and Herzegovina.