

# **Bosnia & Herzegovina**

## **Law on Movement of Stay of Aliens and Asylum**

Entry into force October 14, 2003

### **Article 27**

(Visa revocation)

1. A visa shall be revoked under the conditions as follows:

- a) where an alien does not comply with the constitutional order and regulations of BiH, its Entities and Brcko District of BiH, or has taken activities in breach of the constitutional system or security of BiH, or where an alien is a member of an organisation that has taken such activities,
- b) where an alien has jeopardised BiH national interests by his/her actions in a way that he/she has been engaged in smuggling of fire arms, explosives, radioactive materials or narcotics or has been engaged in unauthorised transport and trade of materials and equipment for production of arms or other weapons of mass destruction or has produced or possessed narcotics or psychotic substances intended for sale, or has been a member of an organisation included in the stated activities,
- c) where an alien has organised illegal entry to, stay on or exit from BiH of individuals or groups or has organised or participated in trafficking of human beings,
- d) where an alien has breached or has attempted to breach regulations concerning the crossing of the state border of BiH, regardless of whether the breach has occurred at entry to or exit from Bosnia and Herzegovina,
- e) where circumstances on the basis of which the visa was issued have changed to such an extent that they would presently exclude any possibility to issue the visa,
- f) where an alien has intentionally provided incorrect data or intentionally disguised circumstances of relevance for visa issuance,
- g) where an alien has performed activities for which a work permit is required, without possessing such a permit,
- h) where the presence of an alien constitutes threat to public order and national security of BiH.

2. The existence of an international warrant of arrest and/or of a final and binding court decision shall be taken as the basis for establishment of the reasons for visa revocation under items a), b), c) and d) of previous paragraph.

### **Article 34**

(Temporary residence on humanitarian grounds)

1. Temporary residence on humanitarian grounds shall be exceptionally granted to an alien who does not fulfil the requirements for granting temporary residence prescribed in this Law, as follows:

- a) to an alien who has been a victim of an organised crime and/or trafficking of human beings, for the purpose of providing protection and assistance for his/her rehabilitation and repatriation into the country of his/her habitual residence,
- b) to a minor child of aliens if he/she has been abandoned or has been a victim of an organised crime or has remained without parental protection for any other reason whatsoever,
- c) to a stateless person,
- d) to an alien with respect to whom the requirements referred to in Article 59 of the present Law have been met and to whom asylum has not been granted pursuant to this Law,
- e) for other justified humanitarian reasons.

2. Temporary residence shall be exceptionally granted to an alien who does not fulfil the requirements needed for issuance of a temporary residence permit prescribed by this Law, if so being in the function of enabling the administration of the court proceedings, and/or in cases where the alien co-operates with authorities in revealing crimes and their offenders, or if he/she has been a victim of an organised crime and his/her presence in BiH is indispensable for conducting the court proceedings where he/she shall appear as a plaintiff, an injured party or a witness.

### **Article 36**

(Protection of victims of trafficking)

- 1. The Ministry has been responsible for providing special protection and assistance to victims of trafficking of human beings for the purpose of their rehabilitation and repatriation into the country of their habitual residence.
- 2. The Ministry shall by way of a by-law specify rules and standards concerning the actions, admission and other issues related to admission of victims of trafficking of human beings, their rehabilitation and repatriation.

### **Article 46**

(Reasons for revocation of residence)

- 1. Right to residence and residence permits shall be revoked on the following conditions:
  - a) where an alien does not comply with the constitutional order and regulations of BiH, its Entities and Brcko District of BiH, or has taken activities in breach of the constitutional system or security of BiH, or where an alien is a member of an organisation that has taken such activities,
  - b) where an alien has jeopardised BiH national interests by his/her actions in a way that he/she has been engaged in smuggling of fire arms, explosives, radioactive materials or narcotics or has been engaged in unauthorised transport and trade of materials and equipment for production of arms or other weapons of mass (*translator's note: part of the sentence probably missing*) or has been a member of an organisation included in the stated activities,
  - c) where an alien has organised or participated in organisation or assisted illegal entry to, stay on or exit from BiH of individuals or groups or has organised or participated in trafficking of human beings,

d) where an alien has breached or has attempted to breach regulations concerning the crossing of the state border of BiH, regardless of whether the breach has occurred at entry to or exit from BiH,

e) where circumstances on the basis of which the residence permit was issued have changed to such an extent that they would presently exclude any possibility to issue the permit,

f) where an alien has intentionally provided incorrect data or intentionally disguised circumstances of relevance for issuance of a residence permit,

g) where an alien has performed the activities for which a work permit is required, without possessing such a permit,

h) where the presence of an alien constitutes threat to public order and national security of BiH.

2. The existence of an international warrant of arrest and/or of a final and binding court decision shall be taken as the basis for establishment of the reasons for revocation of residence prescribed in items a), b), c) and d) of previous paragraph.

3. Provisions of items e) and g) shall not be applied if an alien holding a permanent residence permit in BiH is able to show evidence of the existence of exceptional reasons justifying this exemption.

## **Article 56**

(Reasons for imposing expulsion measure)

An alien may be expelled from BiH for one of the following reasons:

a) if he/she has remained in BiH after the expiration of his/her visa or residence permit or after the expiration of the period of his/her entitlement to non-visa residence,

b) if he/she has remained in BiH after the cessation of his/her asylum status or after a final and binding decision on refusal of his/her application for asylum has been taken, while he/she has neither acquired the right of residence in accordance with this Law nor has acquired the citizenship of BiH,

c) if he/she has remained in BiH after withdrawal or release from BiH citizenship, while he/she has not realised the right of residence in accordance with this Law,

d) if he/she has violated or attempted to violate regulations on crossing the state border of BiH, regardless of whether the violation has occurred while entering or exiting BiH,

e) if the right of residence of the alien or a residence permit has been revoked by a final and binding decision in accordance with this Law,

f) if he/she has been convicted by a final and binding court decision for a crime which can be qualified as dealing of narcotics, selling of weaponry, trafficking of human beings, smuggling of people, terrorism, laundering of money or as any other type of organised crime, while the court has simultaneously not imposed the security measure of his/her expulsion from the territory of BiH,

g) if he/she has been convicted by a court in BiH of another crime and sentenced to more than four years of imprisonment, while the court has not simultaneously imposed the security measure of his/her expulsion from the territory of BiH,

h) if presence of the alien constitutes threat to national security and public order of BiH.

2. While assessing whether the expulsion measure from BiH territory shall be imposed against an alien and/or while taking the decision on duration of that measure, the Department is obligated to carefully review all the reasons relevant for issuing the decision, both detrimental and beneficial ones.

## **Article 62**

(Restriction clauses)

1. Where the court proceedings have been instigated against the alien, a decision on expulsion cannot be enforced earlier than the case is resolved with a final and binding decision.

2. The decision on expulsion cannot be enforced earlier than the prison sentence imposed against the alien is fully served, except in probation cases.

3. If there exist reasons for forcible removal of the alien prescribed in this Law, the alien shall not be forcibly removed if so being in the interest of conducting the court proceedings where the alien shall appear as a plaintiff, an injured party or a witness, being a victim of trafficking of human beings or any other form of an organised crime or where the alien shall co-operate with authorities in revealing crimes and their offenders. The alien shall be granted residence prescribed in Article 34 paragraph 2 of the present Law for as long as these circumstances are present.

4. Forcible removal of an alien from the country shall not be commenced if the alien has decided to leave the territory of BiH by himself/herself or with the assistance of international governmental or non-governmental organisations and has provided an adequate guarantee for such a decision (title of transport, attestation of governmental or non-governmental organisation, etc.).

## **Article 66**

(Structure of institutions)

Immigration centres, asylum centres, centres for accommodation of victims of trafficking of human beings and other institutions specialised for reception of aliens may be established for the purpose of implementing the present Law.

The Council of Ministers of BiH shall by way of by-laws determine the title and the type of a specialised institution for reception of aliens, method of their administration, financing conditions, functioning standards, the method for ensuring special conditions for beneficiaries of a special institution, providing supervision of aliens against whom a measure of supervision has been imposed, as well as other issues relevant for operation of a certain type of a specialised institution.

The prescribed special conditions in specialised institutions for reception of aliens shall comply with the requirements ensuing from the Constitution and international standards relating to the treatment of beneficiaries of specialised institutions.

Supervision of the operation of the institution specialised for reception of aliens shall be conducted by the Ministry.

# **Bosnia & Herzegovina**

## **Criminal Code**

Entry into force March 1, 2003

### **Trafficking in Persons**

#### **Article 186**

(1) Whoever takes part in the recruitment, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to obtain the consent of a person having control over another person, for the purpose of exploitation, shall be punished by imprisonment for a term between one and ten years.

(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article against a juvenile, shall be punished by imprisonment for a term not less than five years.

(3) Whoever organizes a group of people with an aim of perpetrating the criminal offence referred to in paragraphs 1 and 2 of this Article, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

(4) Whoever acting out of negligence facilitates the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, shall be punished by imprisonment for a term between six months and five years.

(5) “*Exploitation*” referred to in paragraph 1 of this Article includes, in particular, exploiting other persons by way of prostitution or of other forms of sexual exploitation, forced labour or services, slavery or slavery-like practices, serving under coercion or removal of organs for the purpose of transplantation.

### **International Procuring in Prostitution**

#### **Article 187**

(1) Whoever procures, entices or leads away another person to offer sexual services for profit within a state excluding the one in which such a person has residence or of which he is a citizen, shall be punished by imprisonment for a term between six months and five years.

(2) Whoever, by force or threat to use force or deceit, coerces or induces another person to go to the state in which he has no residence or of which he is not a citizen, for the purpose of offering sexual services upon payment, shall be punished by imprisonment for a term between six months and five years.

(3) If the criminal offence referred to in paragraphs 1 and 2 of this Article is perpetrated against a child or a juvenile, the perpetrator shall be punished by imprisonment for a term between one and ten years.

(4) The fact whether the person procured, enticed, led away, forced or deceived into prostitution has already been engaged in prostitution is of no relevance for the existence of a criminal offence.