

**(Official Gazette of Bosnia and Herzegovina” No. 61/04)**

**LAW ON AMENDMENTS TO THE LAW ON PROTECTION OF WITNESSES UNDER THREAT AND VULNERABLE WITNESSE**

**Article 1**

In the Law on Amendments to the Law on Protection of Witnesses Under Threat and Vulnerable Witnesses (Official Gazette BiH no. 21/03), in Article 1, “Chief Prosecutor of Bosnia and Herzegovina” shall be replaced by “Prosecutor’s Office of Bosnia and Herzegovina”.

**Article 2**

Article 2 of the Law shall be amended to read as follows:

“Meaning of Terms

- (1) Family for the purpose of this Law refers to persons who are allowed to refuse to testify pursuant to article 83 of the Criminal Procedure Code of Bosnia and Herzegovina (hereinafter: the CPC BiH)
- (2) Other terms used in this Law shall have the meaning that follows from the CPC BiH, the Criminal Code of Bosnia and Herzegovina and the Law on the Court of Bosnia and Herzegovina, unless otherwise stipulated by this Law.”

**Article 3**

- (1) In paragraph 1 of Article 3, after “pertaining to his testimony”, the following shall be inserted: “or a witness who has reasonable grounds to fear that such a danger is likely to result from his testimony.”
- (2) Paragraph 2 of article 3 shall be deleted. Paragraphs 3 and 4 shall become paragraphs 2 and 3.

**Article 4**

Paragraph 2 of Article 5 of the Law shall be amended to read as follows: “A witness under threat and a vulnerable witness shall be entitled to legal aid and shall have the right to assistance and support of social care bodies in accordance with the law.

**Article 5**

In Chapter II of the Law, before Article 6, a new Article 5 a shall be inserted which shall read as follows:

“Article 5a

Measures of protection shall only be implemented with the consent of the witness.”

**Article 6**

In Article 6, after “the Court, shall” the following shall be inserted: “provided the witness agrees, and without disclosing any of the witness’s personal details,”.

## **Article 7**

In paragraph 2 of Article 8, after “exceptional circumstances” the following shall be inserted: “if the Court finds it to be in the witness’s best interest”.

## **Article 8**

In paragraph 2 of Article 10 before “The accused shall be enabled...” the following shall be added: “If removed from the courtroom...”.

## **Article 9**

- (1) In paragraph 3 of Article 12 “taking the decision referred to in paragraph 1” shall be replaced by “issuing the decision referred to in paragraph 1”, while “must be taken within 72 hours” shall be replaced by “must be issued within 72 hours”.
- (2) In the first sentence of paragraph 8 of Article 12, after “The Court shall” the following shall be inserted: “at all stages in the proceedings”, while “always bear in mind” shall be replaced by “be mindful of”.

## **Article 10**

- (1) The title of Article 13 shall be amended to read as follows: “Additional measures to provide for the non-disclosure of the identity of the witness”.
- (2) In paragraph 2 of Article 13 “decide that the anonymity of the witness be preserved by allowing the witness...” shall be replaced by “decide that the identity of the witness is not disclosed by allowing the witness...”.

## **Article 11**

- (1) In Article 15, paragraph 1 shall be deleted and replaced by a new paragraph 1 which shall read as follows: “Either ex officio or upon a motion filed by the Prosecutor, the suspect, the accused, or his defense attorney, the Court may determine whether a witness protection hearing is justified.”
- (2) In paragraph 3 of Article 15 “If the motion is made by the Prosecutor or the suspect or the accused or his defense attorney” shall be deleted.
- (3) In Article 15, new paragraphs 4 and 5 shall be inserted which shall read as follows:  
“(4) The envelope with the request for a witness protection hearing shall be delivered to the Court President without delay. The Court President shall forward the motion to the respective trial chamber or, where no indictment has been confirmed so far, shall issue an order naming the President and two additional members of the panel that has to deal with the matter.”  
(5) The Court may summon the person who put forward the proposal to further explain or clarify the facts relevant to the request.”

## **Article 12**

- (1) In paragraph 1 of Article 16, “Panel of three judges” shall be replaced by “Court”.
- (2) In Article 16, a new paragraph 3 shall be inserted after paragraph 2, which shall read as follows:  
“(3) The Court’s decision pursuant to paragraph 1 of this Article shall be communicated to the parties without delay and not later than within 3 days following the day the motion is decided. The aforementioned communication shall be made in writing but shall not contain the name or any

identifying information related to the witness who was the subject of the request.”

### **Article 13**

- (1) In the title of Article 17 “of the Panel” shall be deleted.
- (2) In paragraph 1 of Article 17, a second sentence shall be added which shall read as follows: “A request for appeal must be made in writing, within 7 days of the Court’s decision, and in accordance with the procedure prescribed in Article 15 paragraph 3 of this Law”.
- (3) In paragraph 2 of Article 17, before “Panel of the Appellate Division” the word “competent” shall be inserted.

### **Article 14**

- (1) In Article 18 “presiding judge of the Panel” shall be replaced by “Court”, while after “place of the hearing” “as soon as practicable” shall be inserted.

### **Article 15**

- (1) In paragraph 1 of Article 19 “Panel referred to in paragraph 1 of Article 16 of this Law” shall be replaced by “Court”.
- (2) In paragraph 2 (b) of the same Article “the members of the Panel and the minute taker of the Panel” shall be replaced by “the members of the Court and the minute taker of the Court”.
- (3) In paragraph 2 (c) of the same Article, before “he shall not appear” the following shall be inserted: “if designated as a protected witness”, while “Panel” shall be replaced by “Court”.
- (4) In paragraph 2 (d) of the same Article “he is not obliged to answer questions” shall be replaced by “he can not be compelled to answer questions”.
- (5) In paragraph 3 of the same Article the word “Panel” shall be replaced by “Court”.

### **Article 16**

- (1) In paragraph 2 and paragraph 3 of Article 20, “Panel” shall be replaced by “Court”.
- (2) In paragraph 4 of Article 20 “take measures to” shall be deleted.

### **Article 17**

- (1) The title of Article 21 shall be replaced by “Use of Protected Witness Testimony”.
- (2) In paragraph 2 and in paragraph 3 of the same Article “judge or the Panel” shall be replaced by “Court”.
- (3) In paragraph 4 of the same Article after “witness protection hearing” the following shall be inserted: “as prescribed under Article 19 paragraph 2 (c) of this Law”.

### **Article 18**

Paragraph 2 of Article 22 shall be amended to read as follows:

“The Court shall conduct such additional witness protection hearing, in the manner provided for in Article 18 – 20 of this Law, as is necessary for the full and proper establishment of facts. The questions and the answers are recorded and read out in the manner provided for in Article 21 of this Law.”.

### **Article 19**

Article 23 of the Law shall be amended to read as follows:

“The Court shall not base a conviction either solely or to a decisive extent on evidence provided according to Articles 11, or 13 through 22 of this Law.”

#### **Article 20**

After Article 24 of the Law, a new Article 24a shall be inserted which shall read as follows:

“Article 24a

General provisions concerning the disclosure of information prescribed by the BiH Freedom of Information Act shall not apply to the processing of personal data of witnesses as described under this Law.”.

#### **Article 21**

This Law shall enter into force on the eighth day after its publication in the Official Gazette of Bosnia and Herzegovina.