Certain Changes in the Criminal Procedure Law (KPP), Criminal Procedure (KP) after 1990 - These in Bosnia and Herzegovina

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Abstract

The authors analyze the scientific ideas, material changes and trends in the BiH society in terms of changes in the criminal procedure law or procedure with regard to the process of accusation, after the 1990s. In this context, it turns out that in the Republic of Bosnia and Herzegovina nineties nineteenth century building the new criminal legislation where criminal procedural law – a process occupies an important place in which the prosecutor dominates – dominus litis, in contrast to earlier treatment, where the investigating judge had the main word, all in terms of the practical application of the law in court and legal system, which Bosnia and Herzegovina is constantly evolving and promotes through various forms of theoretical and practical training.

The process of accession new form of treatment is an excellent example of the ability and willingness of legislators and members of the judiciary in Bosnia and Herzegovina presented by experts and consultants involved in the project – to the legislative bodies shall cooperate, share their knowledge, experiences and opinions in science and the legal profession, order exceeded the existing obstacles in the formation of harmonized judiciary in the country.

Members of the criminal justice system are invited to constantly work on improving the new mode, in relation to the work to the nineties of the twentieth century, through constructive critical feedback as it is intended that the present educational material continuously update and enhance the scientific and practical terms.

Keywords: *investigation, preparation of the indictment, the indictment, the contents of the indictment, the decision on the indictment.*

Introduction

As part of this educational work dealt with topics of criminal procedural law, with emphasis on the changes in the criminal procedure law, after the 90s of the twentieth century in Bosnia and Herzegovina. This theme was chosen and treated for the training of judges, prosecutors, defense lawyers, students of law and other faculties of which it is the main activity in the treatment and study as the most important process of legal activity, given the present implementation problems that arise in legal reforms nineteenth or twentieth Ages.

This scientific work and other practical educational tools will help in the ongoing training of judges, prosecutors and other interested personnel.

1. Investigation in criminal proceedings

The investigation stage of pre-trial proceedings conducted by the prosecutor against a person, due to grounded suspicion that he committed an offense. What is "adversarial seal" whole new criminal justice system is setting the criminal proceedings as a comprehensive "criminal proceedings", with strongly pronounced akuzatornošću each stage of the criminal proceedings in which the prosecutor one of the parties to the proceedings, with powers to prosecute offenders, where a legislator leaves and establishes responsibility for the entire process of discovering and clarifying the crimes and their perpetrators, focusing on the authorization or the rights and duties of the prosecutor, limited judicial intervention in the investigation only to cases in which an investigation or specific actions to be implemented in an investigation, or may not produce such effects which can be undermined or limited, but defined human rights and freedoms.

The process of accusation lies in the XX-th head of the Criminal Procedure Code of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Serbian Republic and the Brcko District of Bosnia and Herzegovina, while the main trail built in the head XXI of the Criminal Procedure Code of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina , Serbian Republic and the Brcko District of Bosnia and Herzegovina. The paper will be presented legal solutions relating to the accusations. On this occasion will be given a practical explanation of the relevant legal provisions.

Also, will point out the specific legal issues and their already established solutions. This contributed to the theoretical and practical advancement of knowledge and skills of judges and prosecutors in handling at this stage of the criminal proceedings.

Only normative and legal solution consists of two parts. The first part deals with the process of accusation, which is the final stage of the previous procedure, and the second part deals with the main trial as well as the central and most important stage of the criminal proceedings.

The new Criminal Procedure Code in the accusation and the case introduced fundamentally changes compared to the previous legal provisions pertaining to this phase of the criminal proceedings. The importance of this phase of the criminal proceedings, and the extent and nature of the changes, imposed the need to take the process of accusation and trial devote significant attention in the process of training of judges, prosecutors and students in law schools.

To this end, and in the context of this work, deals with the process of accusation, whose main task indictment, making a preliminary hearing on the charges, plea, plea bargaining and preliminary objections. With regard to the objectives of education, the total area given: a review of the legal provisions relating to the stage of criminal proceedings, a practical explanation of the relevant legal provisions, review of different attitudes and practices with regard to certain legal solutions.

2. Procedure accusations

2.1. Indictment

Relevant regulations[1]: Art. 16 of the Criminal Procedure Code of Bosnia and Herzegovina (hereinafter: the CPC BiH): "Criminal proceedings may be initiated and conducted upon the request of the Prosecutor." Art. 17 of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina (hereinafter: FBiH CPC): "Criminal proceedings may be initiated and conducted upon the request of the competent prosecutor." Art. 16 of the Criminal Procedure Code of the Republic of Serbian (hereinafter: RS CPC) and Article 16, paragraph 1 of the Criminal Procedure Code of the Brcko District of Bosnia and Herzegovina (hereinafter: CPC BD): "Criminal proceedings may be initiated and implemented only at the request of the prosecutor.

" The aforementioned legal provisions expressed principle accusatory or adversarial principle which is the basis for the initiation and conduct of criminal proceedings which was the essential requirement prosecutor. Accepting this principle implies that the court can never be prosecuted on its own initiative, which requires:

✓ separation basic process function so that the function of prosecution was entrusted to the competent prosecutor, defense functions entrusted to the suspect or the accused and his defense attorney, a function of the trial - the court;

✓ criminal proceedings has the character of a dispute the two parties (the prosecutor and the suspect or the accused) in court;

✓ criminal proceedings can be initiated only against those individuals and for what offense that the prosecutor determined in its request.

In accordance with the principle of accusatory, after the conclusion of criminal proceedings may be initiated only after the indictment the prosecutor in charge and only against a person identified in the indictment and only for work that is the subject of the charges. "The prosecutor is obliged to initiate a prosecution if there is evidence that a criminal offense, unless the law provides otherwise." The provision contains the principle of legality of criminal prosecution according to which the competent prosecutor, except in the cases expressly provided for in the laws on criminal procedure, required to initiate a prosecution if there is evidence that a criminal act.

However, in cases where there is evidence that a criminal offense was committed, competent prosecutor not to initiate a prosecution if the statute of limitation of criminal prosecution, if the offense is covered by amnesty or if other circumstances exist which preclude criminal prosecution, for example, in the event that a suspect enjoys procedural immunity or that the mentally ill after the commission of the offense.

If there is evidence that a criminal act, the prosecutor, therefore, as a rule, is not authorized to appreciate the expediency (expediency) of criminal prosecution from the

[1] In this section, reference is made to the relevant provisions of the Criminal Procedure Code of Bosnia and Herzegovina (hereinafter: the CPC BiH). When you call upon the relevant provisions of the CPC, shall be indicated and the relevant provisions of the Code of Criminal Procedure of the Federation of Bosnia and Herzegovina (hereinafter: FBiH CPC), the Criminal Procedure Code of the Republic of Serbian (hereinafter: CPC RS) and Criminal procedure of Brcko District of Bosnia and Herzegovina (hereinafter: CPC BD). In the event that the legislative approaches in relation to certain issues differ, it will be particularly noted. Where the legislative solutions are identical, in the present section will be indicated only provisions of any of these laws which regulate or question.

standpoint of national interests (principle of opportunity of criminal prosecution), but in any case obliged to initiate a prosecution.

"Exceptions to the principle of legality of criminal prosecution are prescribed for:

- offenses which are prosecuted upon approval (Art. 209)
- crimes for which are provided special conditions for prosecution (art. 210)
- crimes whose prosecution can be transferred to a foreign country (Art. 412)
- offenses in which the prosecutor will give immunity to the witness (Art. 84)
- minor offenses whose perpetrators are minors (in. Art. 352 and 353) and
- crimes discussed in the proceedings against legal persons (Art. 376).[2]

In accordance with the principle of legality of criminal prosecution, after the conclusion of the prosecutor is required, unless the law of criminal procedure is not otherwise provided, press charges if there is evidence that the suspect committed a criminal offense.

The prosecutor is also required to support the indictment until the legal conditions for the criminal prosecution of the suspect or the accused. The basic right and the basic duty of the prosecutor is the detection and prosecution of perpetrators of crimes falling within the jurisdiction of the court. The prosecutor has the right and duty to raise and represent the indictment before the court.

2.2. Preparation indictment

Relevant regulations: Art. 226 of the CPC BiH, Art. 241 FBiH CPC, Art. 233 RS CPC and art. 226 of CPC BD: "(1) When in the course of the investigation, the Prosecutor finds that there is sufficient evidence from which a reasonable suspicion that the suspect committed a criminal offense, shall prepare and refer the indictment to the preliminary hearing. (2) After the indictment, the suspect or the accused and the defense attorney have the right to inspect all files and evidence. (3) After the indictment, the parties and defense attorney may propose to the preliminary hearing judge to take actions in accordance with Article 223 of this law. " The investigation is the first phase of the preliminary procedure can be completed in two ways: the order of the competent prosecutor that the investigation is suspended (Art. 224 of the CPC BiH, Art. 239 FBiH CPC, Art. 224 RS CPC and Art. 224 of CPC BD) that is, when the investigation is suspended because there is insufficient evidence that the suspect committed a criminal offense, only conditionally, because the prosecutor reopen the investigation if additional information are obtained provide sufficient reasons to believe that the suspect committed a criminal offense, or indictment (art. 225, para. 1 of the CPC BiH, Art. 240 para. 1 of the CPC FBiH, Art. 225 para. 1 of the CPC RS and Art. 225 para. 1 of the CPC BD).

The prosecutor filed indictments when during the investigation finds that there is sufficient evidence from which a reasonable suspicion that the suspect committed a criminal offense. The legal requirement for an indictment is, therefore, reasonable suspicion that the suspect committed a criminal offense. "Reasonable doubt is a higher degree of suspicion based on collected evidence leading to the conclusion that a criminal

[2] Sijerčić-Čolić H., Hadžiomeragić M., M. Jurcevic, Kaurinović D. Simovic M. "Comments on Criminal Law / Criminal Procedure Code of Bosnia and Herzegovina", joint project of the Council of Europe and the European Commission, Sarajevo, 2005, p .78. The provisions to which the author calls refer to the CPC BiH (note the authors of the module).

act." Grounded suspicion that a person has committed a crime is a complex concept. In a logical sense, it indicates a certain degree of certainty of knowledge about the existence of these facts. In legal terms it is a standard that guarantees citizens that psychological assessment which is to this realization comes, be based on objective and verifiable criteria. Generally speaking, the degree of certainty must be such that in krivičnompostupku conviction of the person who is considered to be the perpetrator of the crime appear more realistic than acquittal, but these prospects arising from the existing evidence on which the suspicion "based".

In doing so, estimating the Attorney General has to go in two directions:

(A) forecasting that will include all the facts that could lead to up to sentencing and acquittal for various reasons in the Penal Code and Criminal Procedure Code (while state attorney is not legally bound by the legal assessment that the courts have given these facts but really is since it exclusively about their legal assessment depends on the final outcome of the criminal proceedings);

(B) diagnostic, which will include all the evidence to support these facts actually the whole image of the perpetrator's guilt and innocence. Only such a complex assumption Attorney General can lead to the correct conclusion that the likelihood of the offender's conviction above its liberation. "[3]

The assessment of whether the evidence collected during the investigation, a reasonable suspicion that the suspect committed a criminal offense and whether he met the legal requirement for an indictment under the exclusive jurisdiction of the prosecutor. It is based on a comprehensive analysis of collected evidence. In assessing the existence or non-existence of a fact the prosecutor is not bound or limited by special formal evidentiary rules.

There are no legal rules which are pre-determined value of certain evidence, nor that certain facts be proved only certain evidence. However, since the latter are, however, some exceptions. "Exceptionally, the law requires that certain circumstances prove only certain means of evidence (eg., To reopen the proceedings in favor of a convicted fact that the final judgment is based on the false testimony of witnesses proved by a final judgment that the witness was found guilty of giving false testimony - Art. 327, para. 2 and art. 328, para. 2). According to some views, the exception to the free evaluation of evidence is the rule that certain facts can not be taken as proven if it is not in favor of going some evidence (eg . certain types of expertise of Art. 103 par. 1, Art. 107 para. 1 and Art. 110 para. 1). Then, there are special rules of evidence in cases of sexual offenses (Art. 264th). also, this principle should be linked with the principle of legal evidence (that identifies where the evidence can not be based court decision - Art. 8), considering that illegal evidence can not be subject to free evaluation. the free evaluation of evidence limited concrete evidence prohibitions, as well as rules on the legality of evidence (ref., for example. Art. 10, 78, para. 6, Art. 86, para. 5, art. 109, para. 4 and 5, Art. 121). "[4]

For this reason, in assessing whether there is enough evidence for a reasonable suspicion that the suspect committed a crime, the prosecutor is obliged to take account

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[3] Krapac, D. "Criminal Procedural Law, the first book: the institutions", Informant, Zagreb, 2000, p. 51st

[4] Sijerčić-Colic H., Hadžiomeragić M., M. Jurcevic, Kaurinović D. Simovic M. "Comments on Criminal Law / Criminal Procedure Code of Bosnia and Herzegovina", joint project of the Council of Europe and the European Commission, Sarajevo, 2005, p .77. The provisions to which the author calls refer to the CPC BiH (note-author).

of those rules, which are exceptions to the principle of free evaluation of the evidence and to assess whether, in respect of certain fact, has the kind of evidence whose existence their finding required by law.

Current legislation on criminal procedure do not specify a deadline by which the plaintiff, upon completion of the investigation, shall prepare and refer the indictment to the preliminary hearing. However, legislation that would, if the investigation is not completed within six months after the order to conduct an investigation, the necessary measures in order to complete the investigation take college prosecution (art. 225, para. 3 of the CPC BiH, Art. 240 para. 3 of the CPC FBiH, Art. 225, para. 3 RS CPC and art. 225, para. 3 of the CPC BD), and that the termination of the investigation noted in the file (Art. 225 par. 1 . BiH CPC, art. 240 para. 1 of the CPC FBiH, Art. 225 para. 1 of the CPC RS and Art. 225 para. 1 of the CPC BD), with the right of the suspect or the accused in the shortest reasonable time be brought before the court and to be tried without delay (Art. 13 of the CPC, Art. 14 of the CPC FBiH, Art. 13 CPC RS and Art. 13 CPC BD, and Art. 6 par. first European Convention for the protection of human rights and fundamental freedoms - hereinafter ECHR), oblige prosecutors to prepare the indictment and refer to the preliminary hearing without undue delay.

It is necessary, in fact, bear in mind that the European Court of Human Rights (hereinafter: ECHR) to start calculating a reasonable period shall be the day when the person given official notification of the competent authority that there is a claim that she committed an offense.[5]

As the investigation could not be completed before the prosecutor heard the suspect (art. 225, para. 2 of the BiH CPC, art. 240, para. 2 of CPC FBiH, Art. 225 para. 2 of CPC RS and Art. 225 para. 2 of the CPC BD), it is obvious that that the reasonable time for the right of the suspect to be brought before the court and to be tried without delay begin to run even in the investigation and that the plaintiff and in preparing and submitting the indictment must take care this right suspects.

In addition to the activities of preparation of the indictment, the legal concept of an indictment (Art. 226 para. 1 of the CPC BiH, Art. 241 para. 1 of the CPC FBiH, art. 233, para. 1 of the CPC RS and Art. 226 par. 1 . CPC BD) includes the referral of the indictment to the preliminary hearing of the competent court.

The indictment is submitted to the judge for a preliminary hearing in as many copies as there are suspects and defense lawyers and a copy of the court (Art. 149 para. 1 of the CPC BiH, Art. 163 para. 1 of the CPC FBiH, Art. 60 par. 1 . RS CPC and Art. 149 para. 1 of the CPC BD).

If you suspect there are more defenders, it is enough to deliver a copy of the indictment for one of them (art. 171, para. 5 of the BiH CPC, art. 185, para. 5 of the CPC FBiH, Art. 82, para. 5 RS CPC and art. 171, para. 5 ZKPBD BiH).

If the indictment is not addressed to the preliminary hearing judge in sufficient number of copies, the judge shall invite the plaintiff to a certain period of time before a sufficient number of copies. If the plaintiff fails to comply with the summons, the preliminary hearing judge shall make the necessary number of copies at the expense of the plaintiff (Art. 149 para. 2 of the BiH CPC, art. 163 para. 2 of CPC FBiH, Art. 60 c. 2nd RS CPC and Art. 149 para. 2 of the CPC BD).

The preliminary hearing judge not, therefore, entitled to the indictment in this case rejected (Art. 148 para. 3 of the CPC BiH, Art. 162 para. 3 of the CPC FBiH, Art. 59, para. 3

[5] See the decision of the ECHR in the Fotti and Others v Italy, from 10.12. 1982

RS CPC and Article . 148 para. 3 of the CPC BD) because it is not about incomprehensible that the submission that does not contain everything you need to act upon it. After the indictment:

- suspect or accused have the right to inspect all files and evidence (Art. 226 para. 2 of the BiH CPC, art. 241 para. 2 of the CPC FBiH, Art. 233, para. 2 of CPC RS and Art. 226 . no. 2 of the CPC BD). Indictment cease restrictions on the right to inspect the files and all the evidence provided art. 47 of the CPC BiH, and Article. 61 FBiH CPC, Art. 55. RS CPC and art. 47. CPC BD. The right to inspect all files and evidence includes the right photocopies of all papers and documents. Authorization for access to documents and evidence after an indictment issued by the judge for a preliminary hearing;

- parties and defense attorney may propose the preliminary hearing judge to take actions that are used for the provision of forensic evidence (art. 226, para. 3 of the BiH CPC, art. 241, para. 3 FBiH CPC, art. 233, para. 3 RS CPC and Art. 226 para. 3 of the CPC BD). Evidence by the Court at this stage is carried out in the same manner as in the investigation phase, ie, in accordance with Art. 223 of the CPC BiH, and Article. 238 FBiH CPC, Art. 223 RS CPC and art. 223 of CPC BD, with what is now to act on this proposal functionally competent judge for a preliminary hearing.

2.3. Contents of the indictment

Relevant regulations: Art. 227 of the CPC BiH, Art. 242 FBiH CPC, Art. 234 RS CPC and art. 227 of the CPC BD: "(1) The indictment contains:

a) the name of the court,

b) the name of the suspect, with personal data,

c) a description of the act pointing out the legal elements of the crime, the time and place the criminal offense, the object on which and the means by which the offense, and other circumstances necessary for the criminal offense as precisely as possible,

d) the legal name of the crime, the relevant provisions of the Criminal Code,

e) proposal of evidence to be presented, including the names of witnesses and experts, documents to be read and objects serving as evidence;

f) the result of the investigation,

g) material supporting the indictment.

(2) An indictment may cover several criminal offenses or several suspects.

(3) If the suspect is at large, the indictment may suggest that he be detained, and if he is in custody can be proposed to extend the detention or that he be released.

The indictment was strictly formal procedural document prosecutor whose mandatory content is determined by Article 227 para. 1 of the CPC BiH, and Article. 242 no. 1 of the CPC FBiH, Art. 234 no. 1 of the CPC RS and Art. 227 para. 1 of the CPC BD BiH.Optužnica must contain the name of the court whose judge for a preliminary hearing indictment indicates. This compulsory element of the indictment the prosecutor expressed its position on what the court has subject matter and territorial jurisdiction to deal with the specific indictment and thus the obligation of the court to which the indictment refers to assess whether the matter and territorial jurisdiction to act in a particular criminal case.

Another mandatory element of the indictment is the name and surname of the suspect, with personal data. The statutory provision on the content of the indictment contains no closer indication of what personal information the suspect indictment must contain. Since the indictment specifies the person who is accused of having made a

specific criminal offense and that the verdict shall refer only to the accused person (Art. 280 para. 1 of the CPC BiH, Art. 295 para. 1 of the CPC FBiH Art. 286 para. 1 of the CPC RS and Art. 280 para. 1 of the CPC BD), the indictment contains personal data necessary for the individualization of the suspect. These are data that are taken from the suspect during his first questioning in the investigation (Art. 78 para. 1 of the CPC BiH, Art. 92 para. 1 of the CPC FBiH, Art. 142 para. 1 of the CPC RS and Article . 78. no. 1 of the CPC BD).

The third mandatory element of the indictment is a description of acts from which the legal elements of the crime, the time and place the criminal offense, the object on which and the means by which the offense, and other circumstances necessary for the criminal offense as precisely as possible. It is a part of the indictment that represents its factual basis for ordering the charge, trial and conviction (Art. 280 para. 1 of the CPC BiH, Art. 295 para. 1 of the CPC FBiH, Art. 286 st. 1st RS CPC and Art. 280 para. 1 of the CPC BD).

Description of the works must contain facts and circumstances which, in the opinion of the plaintiff, arising from the evidence collected during the investigation and that the legal characteristics of a criminal offense (the act of perpetration, consequence, if it is an element of the legal description of the act, the causal link between the act of perpetrating the immanent consequences , with the criminal offenses of omission basis from which the obligation to reflect upon the suspect to commit, the mental attitude of the perpetrator towards the actions of perpetration and nastupjeloj consequence, other subjective elements of the offense, for example, a specific intent, a description of the behavior of the suspect, which shows that it is contrary to a specific blanket regulation in case of crimes with blanket disposition, the unlawfulness of conduct when the unlawfulness of a particular element of the relevant criminal offense).

Factual allegations in the indictment must contain a description of the offense, that is, the facts and circumstances pointing to the legal elements of the crime, not the elements of the crime as they are given in marriage. For example, in the factual basis of the indictment for criminal offense of aggravated bodily harm should be stated not only that the suspect damaged caused serious and life-threatening bodily harm, but also the facts and circumstances which the violation and specifies which indicate that it is just of such physical harm. Or, for example, the factual basis of the indictment for the criminal offense of causing death by negligence is not sufficient to indicate that the suspect caused the death of another carelessly wielding a gun, but it is necessary to state the facts and circumstances of the particular case consisted failing to act and possible attention when handling a rifle.

The subject on which there is a means by which the offense are mandatory element of the factual basis of the indictment, and when they are not elements of the legal entities of the underlying crime. It is obvious that the legislator considers them in any case an essential element for the individualization of crimes for which a suspect is charged. Factual allegations in the indictment must contain the time and place the criminal offense regardless of whether they are legal elements of the crime. It is the circumstances that are used for individualization of offense for which the suspect is charged. In addition, it is the circumstances that are important for the determination of the applicable criminal law and certain provisions of the criminal law (for example, the statute of limitations) or for determination of territorial jurisdiction of the court. The law requires that the factual allegations in the indictment contains, and other circumstances necessary for the criminal offense as precisely as possible.

This and previous requirements relating to the factual allegations in the indictment, as well as those relating to the legal basis of the indictment, unless they need to provide the preliminary hearing judge of the Indictment, should also at this stage of the proceedings to enable the realization of the rights of suspected fully and in a language which he understands to be informed about the nature and grounds of the charge against him (Art. 6 (3) (a) of the ECHR) which is one of the preconditions for the realization of the rights of the suspect to have adequate time and facilities to prepare his defense (Art. 6 (3) (b) of the ECHR) . The fourth element of the mandatory content of the indictment is the legal name of the crime, the relevant provisions of the Criminal Code. This is a point which the indictment the prosecutor determines the legal qualification of the offense for which accuses the suspect. In addition to the legal title deeds and quoting provisions of the law with which the act specified, the prosecutor in this part of the indictment shall state and other legislation relevant to the work of the suspect (eg. The provisions relating to the attempt to commit criminal acts, some form of complicity, continued criminal offense , etc.). If it is a crime that has multiple forms, the plaintiff in the indictment required to mark not only that members of the criminal law it is a crime, but also a certain attitude which is in the law determined by the shape of a criminal offense for which the suspect is charged. The fifth compulsory element of the indictment is the proposal of evidence to be presented, including the names of witnesses and experts, documents to be read and objects serving as evidence. Although the law says only the names of witnesses and experts and not on their addresses, there is no doubt that the proposal of evidence to be performed must contain this information. The word on data from witnesses and experts required in taking their hearing in the investigation or in their engagement as an expert, and, moreover, the plaintiff has the right to require the provision of necessary information from government bodies, enterprises, legal and natural persons (Art. 35 para. 2 items. d) of the CPC BiH, Art. 45 para. 2 items. d) FBiH CPC, Art. 43 para. 2 items. g) RS CPC and art. 35 para. 2 items. d) of the CPC BD), but there are no reasons that would prosecutor freed and the obligation to submit these data to court with a proposal of evidence to be presented. If the indictment is proposed, in accordance with the Law on protection of witnesses under threat and vulnerable witnesses[6], examination of witnesses under threat with the use of additional measures to ensure the disclosure of the identity of witnesses (art. 13 of the Law on Protection of Threatened and Endangered Witnesses[7]), name and addresses of such witnesses will not be indicated in the indictment, but they will be labeled in the indictment pseudonym.

Also, if during the proceedings, a witness heard as a protected witness (Art. 14 through 23 of the Law on Protection of Threatened and Endangered Witnesses[8]), the

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[6] The Law on Protection of Threatened and Endangered Witnesses (Official Gazette, 21/03 and 61/04), Law on Protection of Witnesses under Threat and Vulnerable Witnesses (Official Gazette of FBiH, No. 36/03), Law on Protection of Witnesses in Criminal procedure (Official Gazette of RS, No. 48/03) and the Law on protection of witnesses under threat and vulnerable witnesses (Official Gazette of BD 10/03)

[7] Art. 14. Law on Protection of Threatened and Endangered Witnesses FBiH, Art. 13. Law on Protection of Witnesses in Criminal Proceedings of the RS and Art. 13. Law on Protection of Threatened and Endangered Witnesses BD.

[8] Art. 15th-24th The Law on Protection of Threatened and Endangered Witnesses FBiH, Art. 14th-23rd Witness Protection Act in criminal proceedings of RS and Art. 14.-23 Law on Protection of Threatened and Endangered Witnesses BD.

indictment will propose a reading of the minutes of the hearing of a protected witness with labeling that witness pseudonym that him by the court. Sixth compulsory element content of the indictment is the result of the investigation. He concludes the prosecutor of the facts arising from the evidence presented during the investigation and whose trial presentation he suggests. In this part of the indictment, the prosecutor should order and summarized their views on the legal significance of the fact that he is considered to arise from the evidence presented and all of which, in the view of the plaintiff, indicating the existence of reasonable suspicion that the suspect committed the crimes for which he is charged in the Indictment . In this part of the indictment the prosecutor should not amount to substantial results, the evidence collected during the investigation. The preliminary hearing judge, who evaluated the existence of reasonable suspicion that the suspect committed the crimes for which he is charged, the indictment is submitted materials to support the allegations and from which he can know the contents of the evidence relied on by the plaintiff in this part of the indictment, and therefore no need to be in this part of the indictment amounts and substantial results of the evidence. On the other hand, considering that the main trial shall commence by reading the indictment (Art. 260 para. 1 of the CPC BiH, Art. 275 para. 1 of the CPC FBiH, Art. 267 para. 1 of the CPC RS and Art. 260th no. 1 of the CPC BD), presenting the results of substantive evidence presented during the investigation in this part of the indictment would lead to the introduction of the main trial substantive results of that evidence by the rules to allow a departure from the principle of direct presentation of evidence at trial.

The seventh compulsory element of the contents of the indictment the material supporting the indictment. These are, as a rule, the minutes of the hearing of witnesses, the questioning of the suspect, expert evidence, records of investigation, the minutes of the reconstruction, the minutes of a dwelling or person, the minutes of seizure of items, seized items, documents, photographs and other technical records , etc. If the suspect is at large, the indictment may suggest that he be detained, and if he is in custody can be proposed to extend the detention or that he be released (Art. 227 para. 3 of the CPC BiH Art. 242 para. 3 of the CPC FBiH, Art. 234 para. 3 RS CPC and Art. 227 para. 3 of the CPC BD). On this proposal decision may be taken only after the confirmation of the indictment because of criminal procedure do not contain provisions that would refer to the custody between picking and confirmation of the indictment, but only provisions relating to detention in the investigation (Art. 135 of the CPC BiH, Art. 149 FBiH CPC, Art. 192 RS CPC.

3. The current situation in terms of criminal procedure reforms in Bosnia and Herzegovina

It is necessary to look at the steps that were taken 2003 years in the field of legislative reform in Bosnia and Herzegovina. So these days the High Representative for Bosnia and Herzegovina, in accordance with its authority, declared a set of laws that have tackled the most to fight corruption and organized crime. Among these laws, the most important was the Criminal Law, the Law on Criminal Procedure and the Law on the protection of vulnerable witnesses and witnesses under threat. The legislator is in the context of comprehensive reform of the criminal law in the legal system of BiH introduced a lot of new legislation and legal institutions that represent the elaboration of international and comparative standards relating to the need for effective prevention

of crime and the fight against complex and contemporary works, as well as the idea of universal protection recognized rights and freedoms. The question of the basic principles underlying the criminal proceedings in BiH, as well as the rules under which they take place are the issues that are often discussed. Although there are a number of additional aspects to be taken into account, however, and from a superficial review of positive procedural law may conclude that it should ensure that no innocent person be convicted and that the perpetrator of a crime imposes a criminal sanction under the terms provided for in substantive criminal law . Finally, the concept of a valid BiH CPC in itself includes the idea of civil law mixed type and common law, and Anglo-American law adversarial, and what is inferred from a comparative study and analysis of certain key institutes in criminal proceedings in BiH. Therefore, the current criminal procedural law in BiH we can repeat that result Reconciliation two legal cultures of continental or European and Anglo-Saxon and Anglo-American.

Overview of contemporary developments in the field of reforming the national criminal proceedings shows a similar picture, with a note that with more or less success boundaries of criminal proceedings which belong to different cultures.

The decisive question that arose after the adoption of the current CPC BiH referred to the need for a period of radical reforms in the criminal justice system and criminal legislation in BiH is continuously monitored and assessed.

Thus, efforts to reform criminal legislation, especially criminal procedure law and criminal procedure continued, as evidenced by the establishment in the Ministry of Justice, the team for monitoring and evaluating the application of criminal law in BiH.

These stimulus has led to concrete proposals which should affect the specific provisions of BiH. Naima in October 2004, a discussion about the first proposal, which included 61 positive procedural provision. The Ministry of Justice is already in December 2004, submitted all segments of Criminal Jurisdiction in BiH, as well as other relevant national and international organizations, so that within two months the Team submitted opinions on the proposed changed or amended. [9]After the expiry of that period Team was assigned to a large number of opinions and views on the proposed amendments, as well as new attitudes towards those processing solutions that were not included in the proposed amendments.

The National Team has set up a working group to prepare proposals WALL CPC with the task of analyzing the signaling aspects of the application of criminal procedural legislation and to recommend measures for their improvement and enhancement.

Conclusion

The conclusion of the prosecutor of the existence of reasonable suspicion that the suspect committed a criminal offense must include the assessment of the facts arising from the collected evidence the legal characteristics of a criminal offense.

Previously described actions of the plaintiff, together with a compilation of the written indictment, make the contents of the legal concept of preparing indictments.

Current legislation on criminal procedure do not specify a deadline by which the plaintiff, upon completion of the investigation, shall prepare and refer the indictment to the preliminary hearing.

[9] Journal for legal theory and practice, 2007th Law and Justice, Sarajevo, br.1.str.7

However, legislation that would, if the investigation is not completed within six months after the order to conduct an investigation, the necessary measures in order to complete the investigation take college prosecution, (art. 225, para. 3 of the CPC BiH, Articles . 240 para. 3 of the CPC FBiH, Art. 225, para. 3 RS CPC and Art. 225 para. 3 of the CPC BD), and that the termination of the investigation noted in the file (Art. 225 st . 1 of the CPC BiH, Art. 240 para. 1 of the CPC FBiH, Art. 225 para. 1 of the CPC RS and Art. 225 para. 1 of the CPC BD), with the right of the suspect or the accused that as soon reasonable time be brought before the court and to be tried without delay (Art. 13 of the CPC, Art. 14 of the CPC FBiH, Art. 13 CPC RS and Art. 13 CPC BD, and art. 6th century . 1 of the European Convention for the protection of human rights and fundamental freedoms -EKLJP), oblige prosecutors to prepare the indictment and refer to the preliminary hearing without undue delay.

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