

Based on Article IV.4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the session of the House of Representatives held on 27 June 2003 and at the session of the House of Peoples held on 18 July 2003, adopted the

## **LAW ON MOVEMENT AND STAY OF ALIENS AND ASYLUM**

### **CHAPTER I – GENERAL PROVISIONS**

#### **Article 1 (Subject-matter of the Law)**

This Law shall regulate conditions and procedure for entry and stay of aliens in Bosnia and Herzegovina (hereinafter referred to as: BiH), reasons for refusal of entry and stay, reasons for cancellation of stay and expulsion of aliens from the territory of BiH, procedure for submission of asylum applications, granting asylum and cessation of asylum in BiH, competency of authorities relevant for the implementation of this Law, as well as other issues related to asylum, stay and movement of aliens in BiH.

#### **Article 2 (Bodies responsible for implementation of the Law)**

In accordance with this Law and by-laws passed on the basis of this Law, the procedure shall be carried out and relevant decisions taken by the:

- a) BiH Council of Ministers,
- b) BiH Ministry of Security (hereinafter referred to as: the Ministry),
- c) BiH Ministry for Foreign Affairs (hereinafter referred to as: the MFA),
- d) Ministry for Human Rights and Refugees,
- e) Entity Ministries of Internal Affairs and Brčko District Police (hereinafter referred to as: MUP).

#### **Article 3**

For the purpose of applying and implementing provisions of this Law the Ministry shall, with opinion obtained from the BiH Council of Ministers, and in accordance with the Law on Administration of BiH (BiH Official Gazette, number 32/02), the Law on Civil Service in BiH Institutions (Official Gazette number, 19/02) and the Decision on Principles for Determining the Internal Organization of Ministries and Other Administrative Bodies of BiH, determine the number of basic and internal organizational units needed, their seats, systematization of posts, as well as other issues relevant for their functioning.

#### **Article 4 (Definitions)**

For the purpose of this Law, the term:

- a) ***an alien*** refers to any person who is not a citizen of BiH or is stateless,
- b) ***a stateless person*** refers to any person who is neither a citizen of BiH, nor a citizen of any other state pursuant to legislation of that state,
- c) ***a place of habitual residence*** of an alien refers to his/her country of origin or the country of his/her permanent residence,
- d) ***a valid travel document*** refers to a passport or another travel document issued by competent foreign authorities which recognise BiH, as well as an ID Card or another document with a photograph authorising its bearer to travel abroad, which has been recognised by an international treaty to which BiH is a Contracting Party, as well as a travel document issued to an alien in accordance with the present Law,
- e) ***an asylum applicant*** refers to any alien seeking asylum regardless of whether the alien has sought asylum at a border crossing or after having entered the BiH territory.

#### **Article 5 (Freedom of movement)**

1. Entry, stay, movement and exit of aliens may be restricted under the terms stipulated by this Law.
2. Under the conditions specified by this Law, aliens staying in BiH shall enjoy the right to freedom of movement within the country and freedom of choosing the place of their residence, unless regulated otherwise in this or other special laws.

#### **Article 6 (Prohibition of discrimination)**

There must be no discrimination expressed towards aliens on any grounds whatsoever, including sex, race, colour of skin, language, religion, political and other views, national and social origin, status of a national minority, property status, age, psychological or physical disability, status attained by birth or some other status.

#### **Article 7 (Obligation of compliance with regulations)**

Aliens in BiH must respect the BiH constitutional order and comply with regulations and decisions of the authorities of the State, Entity and Brčko District of BiH.

#### **Article 8 (Rights during the proceedings before the State bodies)**

1. Aliens must, within the prescribed deadline, present to competent authorities relevant documents, information and attestations required for conducting the procedure for granting residence, as defined by the present Law.

2. At all stages of the procedure aliens shall be informed of the rights and obligations that ensue from the present Law, of the right to appeal, of all potential claims for damages as well as of all formalities necessary to have their rights recognised.
3. If an alien does not know the language used during the procedure, the body that conducts the procedure is obliged to give an alien an opportunity to follow the course of the proceeding through an interpreter.

**Article 9**  
**(Proof of identity)**

During their stay at the BiH territory, aliens must possess documents for the purpose of proofing and verifying their identity and their right to enter and stay in BiH and present them to the competent authority.

**CHAPTER II – ENTRY AND STAY**

**Part A. General entry conditions**

**Article 10**  
**(Crossing the border)**

1. Aliens may cross the BiH border only at the border posts open to international traffic or at those meant for circulation between two States, unless agreements between BiH and neighbouring States provide otherwise.
2. An alien wishing to enter or leave BiH shall be subject to control by an officer authorised to control the crossing of the state border, and is obliged to subject both his/her luggage and his/her vehicle to that control.
3. At the request of the officer referred to in paragraph 2 of this Article, an alien wishing to enter or leave BiH shall be obligated to accurately and fully answer all questions and hand over all documentation, as well as to fill out additional questionnaires, if so requested by the officer.

**Article 11**  
**(General entry conditions)**

1. An alien may be granted entry to BiH provided that he/she has fulfilled the following requirements:
  - a) that he/she is in possession of a valid travel document or another document based on the decision of the BiH Council of Ministers,
  - b) that he/she is in possession of a valid visa for entry and stay or for transit through the BiH territory or a residence permit as stipulated in this Law,
  - c) that he/she has the means to support himself/herself during his/her entry, stay and exit from the country, including health care means as stipulated in Article 14 of this Law,

- d) that he/she is in possession of an entry visa, if so required, of a neighbouring country of his/her destination, or the country the territory of which he/she is transiting through,
  - e) that no expulsion measure, cancellation of stay or prohibition of entry to BiH territory has been imposed against him/her for as long as the imposed measure is in force,
  - f) that his/her presence in the territory of BiH does not constitute a threat to national security, rule of law and public order of BiH.
2. The BiH Council of Ministers may prescribe special conditions for entry of aliens, when so being required by reasons of national security and rule of law in BiH or by other reasons stemming from international obligations.

**Article 12**  
**(Entry on special conditions)**

An entry may be allowed to an alien even if he/she does not fulfil the conditions referred to in Article 11 items a) and b) of this Law, if so being stipulated by an international treaty to which BiH is a Contracting Party or by a special regulation of the BiH Council of Ministers.

**Article 13**  
**(Exemption from visa requirement)**

1. At the proposal of the Ministry and the MFA, the BiH Council of Ministers shall specify the countries whose citizens shall not be required to have visa for entering BiH (hereinafter referred to as: non-visa countries), as well as the countries whose citizens may enter BiH with a travel document other than a passport. The BiH Council of Ministers shall also be responsible to exempt from visa requirements persons whose refugee status has been recognised by other countries in accordance with the 1951 Convention relating to the Rights of Refugees.
2. Aliens who according to this Law are exempt from visa requirement to enter the BiH territory shall be entitled to stay in the country (hereinafter referred to as: non-visa residence) for a period of not longer than three months, unless a shorter period has been designated by an international treaty to which BiH is a Contracting Party or by a special regulation of the BiH Council of Ministers, passed in accordance with Article 12 of this Law.
3. Aliens are exempt from visa requirement to enter BiH if their permanent or temporary residence permit sticker has been affixed in their passport, for as long as that residence permit is valid.

**Part B. Means of subsistence**

**Article 14**  
**(Means of subsistence)**

Evidence of the existence of means of subsistence needed to support an alien referred to in Article 11 paragraph 1 item c) shall be brought through either:

- a) possession of cash in local or foreign convertible currency,
- b) possession of forms of non-cash payment accepted by the BiH banking system, as well as the guaranties of the BiH bank which accepts non-cash payments possessed by the alien,
- c) a letter of guarantee or a letter of invitation,
- d) presentation of evidence of board and lodgings paid for through a travel agency, or
- e) possession of other reliable means (real property in BiH based on which the means needed for stay in BiH might be provided, means obtained from direct foreign investments, production/technical co-operation and co-operatives, etc).

**Article 15**  
**(Letter of guarantee)**

1. A letter of guarantee needed for an alien to enter BiH may be issued by a citizen of BiH or by an alien who has been granted permanent residence in BiH. A letter of guarantee may be accepted as the attestation of the possession of means of subsistence, provided that it contains the statement that the guarantor undertakes to provide lodging, costs of medical treatment and to ensure support and other expenses related to stay of the concerned alien in BiH, as well as costs of his/her departure from BiH.
2. The attestation (guarantee) referred to in previous paragraph must be certified by the competent administrative authority and the organizational unit of the Ministry in the place of permanent residence of a guarantor or in the place of his/her business seat.

**Article 16**  
**(Letter of invitation)**

1. A letter of invitation is a form of a letter of guarantee (guarantee) whereby a domestic or foreign legal entity registered in BiH is inviting a foreign partner to a business visit within a designated period of time.
2. The invitation shall include the statement on covering the costs referred to in Article 15 of this Law.
3. The invitation must be certified by the BiH Chamber of Commerce and by the competent administrative authority and the organizational unit of the Ministry in the place of a business seat of a person issuing a guarantee (letter of invitation).

**Article 17**  
**(Work permit)**

1. When an alien wishes to enter BiH for the purpose of work or other taxable activity returning profits, entry may only take place when he/she has a work permit or its equivalent, issued by the competent administrative authority in accordance with special regulations regulating the field of employment, banking, investments or policy of direct foreign investments, as well as business/technical co-operation, production and co-operatives.

2. An alien who has a work permit shall be deemed to fulfil the requirements relating to the possession of means of substance.

**Article 18**  
**(Departure guarantee)**

1. Evidence of the existence of a departure guarantee can be brought through a title of transport valid for return or continuation of his/her travel as well as through the legal possession of the means of transport by the concerned alien.
2. Whenever necessary, the possession of various visas which have authorised the concerned alien to continue his/her travel onto the territory of another State may be required, as well as other evidence based on which it can be undoubtedly determined that the alien shall depart from the BiH territory in accordance with this Law.

**Article 19**  
**(Evidence of the existence of means of subsistence)**

1. Aliens, who under this Law are exempt from visa requirement to enter the BiH territory, must have documents and attestations referred to in Article 14 of this Law and present them when entering BiH to a person authorised to control the crossing of the State border at his/her request.
2. Aliens, who are required to have a visa in order to enter BiH, must submit attestations and documentation prescribed in Article 14 together with the application for issuance of the visa.
3. Aliens whose BiH temporary or permanent residence permit has been entered in their valid travel document are not obliged to have attestations and documentation referred to in Article 14 of the Law when entering BiH, for as long as their residence permit is valid.

**Article 20**  
**(Refusal of entry)**

1. An alien shall be refused entry to BiH if he/she does not fulfil the conditions prescribed in Article 11 of the Law.
2. An alien may be refused entry to BiH even if he/she fulfils entering requirements prescribed in Article 11 of this Law if:
  - a) while entering the country he/she avoids to present the requested information to the authorities competent for the control of the border crossing, or he/she avoids to complete certain questionnaires or deliberately provides false information about his/her right to enter BiH or deliberately avoids such situations, or
  - b) there are reasonable grounds to believe that he/she will be performing activities for which a work permit is required, without possessing such a permit, particularly with regard to an alien who has already been refused entry to BiH for the above mentioned reasons.

3. An alien who has been refused entry in accordance with previous paragraphs of this Article cannot enter BiH at least 24 hours from the moment of refusal of entry, although he has fulfilled all entry conditions after issuance of the decision on refusal of entry.

**Article 21**  
**(Competency and appeal)**

1. Decisions on refusal of entry at the border shall be taken by the organisational unit of the Ministry competent for the control of the State border crossing.
2. An appeal against the decision on refusal of entry at the border may be lodged with the Ministry within 15 days from the notification of the decision.
3. The appeal does not stay the execution of the decision.

**CHAPTER III – ENTRY AND RESIDENCE PERMITS  
AND TRAVEL DOCUMENTS**

**Article 22**  
**(Entry permits)**

Except in case referred to in Article 12 of this Law, permits authorising an alien to enter and stay in BiH are as follows:

- a) visa,
- b) temporary residence permit,
- c) permanent residence permit.

**Article 23**  
**(Visas)**

1. A visa is a permit authorising entry to and stay on the BiH territory as well as a transit through the BiH territory for a limited period.
2. An alien shall be issued a visa if he/she fulfils requirements referred to in Article 11, items a), c), d), e) and f) of this Law and if he/she has not been registered in the records of competent authorities, in particular as an international offender.
3. A visa shall authorise stay for the period stated therein, but not more than 90 days. A visa that allows a single entry shall be valid for 90 days the most.
4. A visa that allows multiple entries shall be valid for one year the most, but each period of stay on the BiH territory may not be longer than 90 days.
5. During the period of validity of a single entry visa, the period of stay defined therein may be extended for justified reasons.
6. A visa shall be extended by issuing a new visa in accordance with the rules relevant for issuance of a visa, for the period of 90 days the most following the date of entry.

**Article 24**  
**(Visa issuance)**

1. A visa shall be issued by the BiH DCRs (*note of the translator: diplomatic and consular representations*).
2. A visa shall be applied for in advance and in person.
3. For exceptional reasons that shall be prescribed by the MFA in a by-law, an application for visa issuance may be submitted before entering BiH, at the border, and it shall be decided by the organisational unit of the Ministry competent for the border crossing control, at the recommendation of the MFA.
4. Exceptionally from provision of the previous paragraph, the organizational unit of the Ministry competent for the border crossing control may independently issue a visa to an alien for a transit through the BiH territory, if so needed.
5. A decision on visa extension and visa issuance, in the sense of Article 23 paragraphs 5 and 6 of the Law shall be issued and enforced by the Seat Office of the MFA.
6. No appeal shall be allowed against the decision on issuance (extension) of visa, and the decision does not need to be explained.

**Article 25**  
**(By-laws)**

1. The Ministry shall by way of by-laws further specify conditions and procedures for entering BiH, as well as other issues relevant for entry of aliens, issuance of visas at the border, form and content of guarantees for entering BiH.
2. The MFA shall in co-operation with the Ministry by way of a by-law prescribe more detailed conditions and procedures for visa issuance (extension), types of visas, form and content of a visa sticker as well as other issues relevant for visa issuance.

**Article 26**  
**(Visa annulment)**

1. A visa shall be annulled if it has been subsequently established that it was issued in contravention to requirements provided for by this Law (Article 23 paragraph 2 and Article 25 paragraph 2).
2. A visa shall be annulled based on the final and binding court decision or based on the decision on annulment of the visa taken by the Seat Office of the MFA.
3. A visa shall be annulled by the authority that has issued the decision on annulment, i.e. the competent organisational unit of the Ministry or the MUP at the territory of which the alien resides, based on the notification and delivery of the final and binding decision by the authority that has annulled the visa. A visa shall be annulled

by affixing a stamp which shall read "ANNULLED" over a visa sticker in the travel document of the alien.

4. If during the control of an alien's entry at the border, the organisational unit of the Ministry competent for the control of the State border crossing determines that his/her visa has been forged, they are obligated to annul the visa immediately.
5. No appeal is allowed against the decision on visa annulment, and the decision does not need to be explained.

**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 Brčko District of BiH, or has undertaken activities in breach of the constitutional system or security of BiH, or where an alien is a member of an organisation that has undertaken such activities,
  - b) where an alien has endangered the BiH national interests by his/her actions in a way that he/she has been engaged in smuggling of weaponry and military equipment, radioactive and other dangerous materials or narcotics or in an unauthorised transport and trade of materials used for production of weaponry or other means of mass destruction or has produced or possessed narcotics or psychogenic substances intended for sale, or has been a member of an organisation included in the stated activities,
  - c) where an alien has organised or has been connected with organising 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 BiH state border, regardless of whether the breach has occurred at entry to or exit from BiH,
  - 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 a threat to public order and national security of BiH, in a manner to be prescribed by the Ministry in a by-law.
2. The existence of an international warrant of arrest, of a final and binding court decision and/or operational information available to the Ministry and MUP shall be taken as the basis for determining the reasons for visa revocation prescribed in items a), b), c), and d) of previous paragraph.

**Article 28**  
**(Competency and appeal)**

1. The decision on visa revocation shall be issued by the Seat Office of the MFA, at the request of the court or the Ministry which does not need to be specifically explained.
2. No appeal is allowed against the decision referred to in paragraph 1 of this Article.
3. An alien whose visa has been revoked and who for the reasons referred to in Article 27 paragraph 1 items a), b), c), d) and h) has not been deprived of freedom shall have his/her further stay cancelled or shall be expelled and placed under supervision pending his/her departure from the BiH territory.

**Article 29**  
**(Travel permit)**

1. A travel permit for aliens is a travel document valid for one single travel and shall be issued to an alien:
  - a) whose valid travel document has been lost or destroyed and cannot be replaced, while in BiH there neither exists a DCR of the country of his/her citizenship nor have their interests been represented by another state, in order to give that alien an opportunity to return to the country of his/her habitual place of residence,
  - b) who has been granted asylum or a residence permit on humanitarian grounds or who has enjoyed protection based on Article 85 of this Law in order to give him/her an opportunity to return to his/her native country or the country of his/her habitual residence or into the third country which has admitted the concerned person,
  - c) who has been released from BiH citizenship for the purpose of travelling abroad.
2. A travel permit for aliens may also be issued in other cases if there exist justified reasons for such an action in accordance with the by-law issued by the Ministry.
3. A travel permit for aliens shall be issued by the competent organisational unit of the Ministry to which a loss or destruction of the travel document has been reported and/or on the territory of which the alien has registered his/her temporary or permanent residence.

**Article 30**

An alien who has not been registered with the competent organisational unit of the Ministry or the MUP and who does not hold a travel or identification document, while DCR of the country of his/her citizenship or the country which represents the interests of the country of his/her citizenship has not issued him/her a travel document or other identification document, shall be placed under supervision until his/her identity is verified and until a travel permit for aliens is issued.

**CHAPTER IV - RESIDENCE OF ALIENS****Article 31  
(Forms of residence)**

In the sense of the present Law, residence of aliens shall refer to: visa residence, non-visa residence, temporary and permanent residence.

- a) visa residence is the right of stay of aliens in BiH for the period stated in the visa,
- b) non-visa residence is the right of stay of aliens arriving from non-visa countries, pursuant to the provision of Article 13 of this Law,
- c) temporary residence is residence on the BiH territory for the period of up to one year, unless specified otherwise in the residence permit,
- d) permanent residence is residence on the BiH territory for an indefinite period of time.

**Part A. Temporary residence****Article 32  
(Application for a residence permit)**

1. If an alien wishes to stay in BiH after the period specified in his/her visa and/or after the period determined for his/her non-visa residence, he/she must submit the application for a temporary residence permit.
2. The application for a temporary residence permit in the sense of paragraph 1 of this Article shall be submitted not later than 15 days before the expiry of validity of the visa, and/or non-visa residence.

**Article 33  
(Grounds for issuing a temporary residence permit)**

1. A temporary residence permit may be issued for justified reasons such as: marriage with a BiH citizen, reunification of a family, education, scientific/research and artistic work, employment as specified in the work permit granted, for business purposes, medical treatment, or for humanitarian reasons.

In case that an alien stays temporarily in BiH based on a tourist visa, the application for a temporary residence permit, which must be specifically explained, shall be decided by the Seat Office of the Ministry.

2. A temporary residence permit may be issued for the period of up to one year or for the period of validity of the alien's passport if that passport is valid for less than one year.
3. Temporary residence reasoned on humanitarian grounds in cases as prescribed in Article 35 paragraph 1 item a) of this Law shall be granted for the period of up to three months.

4. Temporary residence reasoned on employment grounds cannot be granted to an alien who has entered BiH as a tourist.
5. A temporary residence permit may be extended at the request of an alien and on the same conditions as prescribed for issuing a residence permit whose extension has been requested.

**Article 34**  
**(General conditions for issuing a residence permit)**

1. Temporary residence shall be granted to an alien on the condition that:
  - a) he/she has evidence justifying the existence of the grounds required for granting temporary residence,
  - b) he/she has funds to support himself/herself, including the funds for his/her health care,
  - c) he/she has a medical certificate issued not more than three months following the date of submitting the application, showing that he/she does not suffer from a disease of high risk for the community and/or that he/she is capable for work.
2. Evidence referred to in item a) of paragraph 1 of this Article shall refer to:
  - a) marriage certificate or other relevant evidence of the marriage concluded,
  - b) work permit issued by the competent employment agency,
  - c) registration with the competent Pension and Invalidation Insurance Fund,
  - d) decision on registration of the legal entity into the court registry, accompanied with the evidence of their solvency,
  - e) attestation of enrolment into an educational institution for the current year,
  - f) medical report accompanied with the recommendation of a health institution confirming the necessity of a long-term medical treatment in BiH,
  - g) documents on completed education and qualifications acquired,
  - h) other evidence required to support the justified stay of the alien in the country whose validity shall be assessed by the competent organisational unit of the Ministry based on Article 55 of this Law.

**Article 35**  
**(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 an alien if he/she has been abandoned or has been a victim of an organised crime or if he/she has been without parental protection, custody or unaccompanied for any other reason whatsoever,
  - c) to a stateless person,

- d) to an alien with respect to whom it is determined that the requirements referred to in Article 60 of the present Law have been met and to whom asylum has not been granted in accordance with this Law,
  - e) for other justified humanitarian reasons whose validity shall be assessed by the competent organisational unit of the Seat Office of the Ministry.
2. Temporary residence on humanitarian grounds 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.
  3. An alien who has been issued a temporary residence permit for humanitarian reasons based on item d) paragraph 1 of this Article is entitled to work and shall have access to education, health care and social protection on the same conditions as BiH citizens.

**Article 36**  
**(Recommendation of a competent authority)**

1. The assessment of the authority before which the appropriate (administrative, court) proceedings have been conducted in the sense of Article 35 of this Law, or recommendation of another competent authority, or the report of a health specialist from the appropriate health institution showing the necessity for his/her treatment and rehabilitation shall be required for granting temporary residence on humanitarian grounds, in addition to other evidence relevant for assessing the rationale of the application.
2. The procedure for issuing a temporary residence permit for humanitarian reasons shall be conducted by a competent organisational unit of the Seat Office of the Ministry.

**Article 37**  
**(Protection of victims of trafficking)**

1. The Ministry has been responsible for providing a 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 the rules and standards of the treatment as well as of other issues concerning the admission of victims of trafficking of human beings, their rehabilitation and return (repatriation).

**Article 38****(Temporary residence reasoned on reunification of a family)**

1. Close family members of a BiH citizen with permanent residence in BiH, or of an alien holding a temporary or permanent residence permit in BiH, may be granted temporary residence for the purpose of family reunification on the conditions as follows:
  - a) where a BiH citizen and/or a person holding a residence permit in BiH has a permanent source of income, or where he/she has been in the possession of means of subsistence to support the respective applicant in BiH,
  - b) where there are no reasons which exclude issuance of residence permits as set out in the present Law.
2. In the sense of this Law, close family members shall refer to:
  - a) spouse,
  - b) children under 18 years of age or dependent children who live in the same household,
  - c) dependent parents.
3. Temporary residence granted on those grounds shall be extended on the same conditions on which a residence permit has been issued.

**Article 39****(Residence in relation with a divorce)**

1. Where a marriage has been divorced during the period of the validity of a temporary residence permit issued for the purpose of a family reunification, a former spouse who has been granted temporary residence as a close family member pursuant to provision of Article 38 of the Law, shall not acquire the right to extend his/her temporary residence, unless:
  - a) he/she has a custody of a minor child who has the BiH citizenship and who has been born in a marriage with a BiH citizen, or
  - b) he/she has resided in BiH for three years continually based on temporary residence granted for the purpose of a family reunification and has met special requirements set out in the present Law for granting temporary residence on other grounds, or
  - c) he/she has expressed reasons relevant for granting temporary residence on humanitarian grounds in the sense of Article 35 of this Law.
2. Provision of paragraph 1 of this Article shall also apply if cessation of the marriage has been provoked by the death of the spouse who is a BiH citizen and/or a foreigner holding a temporary or permanent residence permit in BiH.

**Part B. Permanent Residence****Article 40****(Conditions for issuing a permanent residence permit)**

1. A permanent residence permit shall be issued to an alien on the following conditions:

- a) that he/she has resided on the BiH territory on the basis of a temporary residence permit for at least five years uninterruptedly before submitting the application for issuance of a permanent residence permit,
  - b) that he/she has funds to support himself/herself, including the funds for his/her health care,
  - c) that he/she has a medical certificate issued over the period of last three months before the application was submitted, showing that he/she does not suffer from a disease of a high risk for the community and/or that he/she is capable for work.
2. Any stay outside BiH for the period of up to ninety days during the same year shall not be considered as an interruption of residence, in the sense of paragraph 1, item a) of this Article.

### **Part C. Procedure and documents**

#### **Article 41 (Refusal of the application for a residence permit)**

An alien, who fulfils the conditions for granting residence prescribed in the present Law, shall have his/her application for a temporary or permanent residence permit refused if:

- a) he/she has entered the BiH territory while not complying with the entry requirements set out in this Law, unless there exist reasons for issuance of a residence permit on humanitarian grounds in the sense of Article 35 of this Law, or
- b) he/she has intentionally provided incorrect information or intentionally disguised circumstances of relevance for issuance of the permit, or
- c) the measure of expulsion, cancellation of residence or prohibition of entering BiH has been imposed against him/her, for as long as the measure is in force, or
- d) he/she has been registered with the BiH law enforcement authorities, in particular as an international offender, or
- e) there are other compelling reasons arising from international treaties to which BiH is a Contracting Party, or
- f) his/her presence, based on the information available to the Ministry, constitutes a threat to public order and national security of BiH.

#### **Article 42 (Application for a residence permit)**

1. An application for a residence permit shall be submitted to the competent organisational unit of the Ministry.
2. An application for a residence permit may be submitted from abroad through a BiH DCR.
3. An application must be submitted at least 15 days before the expiry of a valid residence period, and/or where applicable, before entry and shall include documents substantiating such a request.

4. An application for a residence permit shall be decided in writing by the authority referred to in paragraph 1 of this Article without unnecessary delay and the latest within 30 days following the receipt of the application.
5. When an alien, in his/her application has expressed reasons in connection with Article 60 of this Law, the decision on validity of his/her request and on granting temporary residence on humanitarian grounds in the sense of Article 35 paragraph 1 item d) of this Law, shall be taken by the Seat Office of the Ministry.
6. The applicant shall be issued an attestation of the submitted application, which shall serve in lieu of a residence permit, pending a final decision upon the application, except in case referred to in paragraph 2 of this Article.

#### **Article 43**

##### **(Appeal against the decision of the organisational unit of the Ministry)**

1. An appeal against the decision upon the application for a residence permit may be filed with the Ministry within 15 days from the date of notification of the decision.
2. An applicant for a residence permit cannot be expelled or forcibly removed from the BiH territory pending the expiration of a deadline for the appeal and/or pending the decision to be taken in the appellate procedure.
3. An alien must remain at the address he/she has registered as his/her residence and every day report to the authority at the territory of which he/she resides pending a final and binding decision to be taken in the appellate procedure.
4. An alien shall be temporarily deprived of his/her passport and provided with an attestation, pending the conclusion of the procedure, unless he/she has voluntarily agreed to leave the country before the completion of the procedure referred to in paragraph 2 of this Article.

#### **Article 44**

##### **(Appeal against the decision of the Seat Office of the Ministry)**

1. No appeal is allowed against the decision of the Ministry on issuing a residence permit on humanitarian grounds in the sense of Article 35 paragraph 1 item d) of this Law.
2. An alien cannot be expelled or forcibly removed from the BiH territory pending a final and binding decision taken in the sense of Article 35 paragraph 1 item d) of this Law.

#### **Article 45**

##### **(Residence permit sticker)**

1. A residence permit sticker shall be affixed in a valid travel document of an alien.

2. An alien is obligated to have and at the request of an official person of the Ministry or the MUP to present his/her travel document showing that he/she has been granted residence on the BiH territory.

**Article 46**  
**(Identification Card for aliens)**

1. An alien who has been granted permanent residence shall be issued an ID card for aliens by the competent administrative body in the place of his/her permanent residence.
2. An alien is obligated to submit the application for an ID card for aliens referred to in paragraph 1 of this Article to the competent authority within eight days following the receipt of the decision on granting him/her permanent residence in BiH.
3. ID cards for aliens shall be issued for a validity period of five years, unless stipulated otherwise by a special regulation.
4. An alien is obliged to have and at the request of an official person referred to in Article 45 paragraph 2 of this Law to show his/her ID card for aliens.

**Part D. Cancellation of residence**

**Article 47**  
**(Reasons for cancellation of residence)**

1. Right of residence shall be cancelled in cases as follows:
  - a) where an alien does not comply with the constitutional order and regulations of BiH, its Entities and Brčko District of BiH, or has undertaken activities in breach of BiH constitutional system or security, or he/she is a member of the organisation which has undertaken such activities,
  - b) where an alien has endangered BiH national interests by his/her actions in a way that he/she has been engaged in smuggling of weaponry and military equipment, radioactive and other dangerous materials or narcotics or in an unauthorised transport and trade of materials for production of weaponry or other means of mass destruction or who has produced or possessed narcotics or psychogenic substances intended for sale, or has been a member of an organisation included in the stated activities,
  - c) where an alien has organised or has been connected with organising 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 violated or attempted to violate regulations concerning the crossing of the BiH State border, regardless of whether the violation 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 a permit,
  - f) where an alien has intentionally provided incorrect data or has intentionally concealed circumstances relevant for issuance of a residence permit,

- g) where an alien has performed activities for which a work permit is required, without possessing such a permit,
  - h) where the visa has been annulled or revoked by a final and binding decision,
  - i) where the presence of an alien constitutes a threat to public order and national security of BiH, in a way to be prescribed by the Ministry in a by-law.
2. The existence of an international warrant of arrest, a final and binding court decision as well as the information available to the Ministry and other law enforcement bodies in BiH shall be taken as the basis for determining the reasons for cancellation of residence prescribed in items a), b), c) and h) of previous paragraph.
  3. Items d), e) and g) of paragraph 1 of this Article shall not be applied if an alien holds a permanent residence permit, while the alien shall be subject to measures for violation of regulations relating to the control of the border crossing and safety of the State border.
  4. If, for the reason of the activities referred to in paragraph 1 items a), b), c), d) and h) of this Article, an alien has been deprived of his/her freedom or has been sentenced to prison without the possibility of a parole, but has not been expelled, the cancellation of his/her residence shall start to run after the reasons for his/her detention have ceased to exist or after the sentence served.
  5. The alien shall be placed under supervision pending his/her departure from the BiH territory.

#### **Article 48**

##### **(Special reason for cancellation of permanent residence)**

An alien who holds a permanent residence permit in BiH shall have his/her further residence cancelled:

- a) if it has been determined that the alien has not resided in BiH for more than one year, while he/she has not informed the competent organizational unit of the Ministry or the MUP on the territory of his/her permanent residence about the reasons of his/her absence,
- b) if the alien has resided outside BiH for less than one year, while based on such circumstances it can be explicitly determined that he/she has no intention to return and take up permanent residence in BiH.

#### **Article 49**

##### **(Competency and appeal)**

1. The decision on cancellation of residence shall be issued by the competent organizational unit of the Ministry *ex officio*, or at the request of the other organizational unit of the Ministry, the court or MUP.
2. The request must be accompanied with all the information and documentation relevant for taking the decision.
3. No appeal is allowed against the decision referred to in paragraph 1 of this Article.

4. The appeal shall be filed with the Ministry within 15 days as of the date of notification of the decision.

#### **Article 50**

##### **(Execution of the decision on residence cancellation)**

1. Once the decision on cancellation of residence becomes final and binding, a residence permit sticker shall be annulled by the competent organizational unit of the Ministry in a travel document of the alien or in another identification document recognized in BiH, by affixing the stamp reading "ANNULLED" across the sticker.
2. The decision on cancellation of residence shall be executed by the organizational unit of the Ministry that has issued the decision and if necessary in co-operation with other organizational units of the Ministry or the MUP, pursuant to this Law.

### **Part E. Registration of aliens' residence**

#### **Article 51**

##### **(Obligation to register temporary/permanent residence)**

1. An alien is obligated to register and de-register his/her temporary residence, and any change of his/her home address as well as to register and/or de-register his/her permanent residence.
2. Registrations and de-registrations referred to in previous paragraph shall be submitted to the competent organisational units of the Ministry or the MUP.

#### **Article 52**

##### **(Temporary and permanent residence)**

1. In the sense of this Law, temporary residence refers to the place where an alien resides temporarily.
2. In the sense of this Law, permanent residence refers to the place where an alien who has been granted permanent residence in the territory of BiH has taken up residence with intention to live there permanently.

#### **Article 53**

##### **(Deadlines)**

1. An alien who has been granted permanent residence is obligated to register his/her permanent residence and any change of his/her home address in the place of permanent residence not later than eight days from the date of notification of the decision on granting permanent residence, and/or from the date of arriving to the place of permanent residence, and/or from the date of changing his/her home address.
2. An alien who has been granted temporary residence is obligated to register his/her temporary residence and any change of his/her home address not later than 48 hours

from the date of notification of the decision on granting temporary residence, and/or from the date of arriving to the place of temporary residence, and/or from the date of changing his/her home address.

**Article 54**  
**(Bodies obligated to register temporary residence)**

1. Natural and artificial persons that provide accommodation services to aliens are obliged to report any stay of an alien to the competent organisational unit of the Ministry or the MUP, the latest within 12 hours after providing accommodation.
2. Natural and artificial persons referred to in paragraph 1 of this Article are obliged to keep records of aliens (hereinafter referred to as: the book of aliens) to whom they have rendered accommodation services. They are obliged to keep the books of aliens for at least three years after closing them. The books of aliens shall be certified by the competent organisational unit of the Ministry or the MUP in the place of permanent residence and/or business seat of the provider of accommodation services to aliens.
3. An alien who does not use accommodation services of natural and artificial persons referred to in paragraph 1 of this Article, or a natural person visited by an alien, is obliged to register his/her residence with the competent organisational unit of the Ministry or the MUP, the latest within 24 hours as of the moment of arrival to the place of residence.
4. The MUP is obliged to communicate all information relating to registration or de-registration of permanent or temporary residence of an alien, and/or relating to any change of his/her home address, to the competent organisational unit of the Ministry within 24 hours from the moment of notification of registration.
5. Natural and artificial persons referred to in paragraph 1 of this Article are obliged to present the books of aliens to the OSL (*note of the translator: authorised or responsible official*) of the Ministry or the MUP, as well as to provide all requested information relating to aliens, their stay and movement.

**Article 55**  
**(By-law)**

1. The Ministry shall by way of by-laws further regulate requirements and procedures relating to issuance of residence permits, form and content of a residence permit sticker in BiH, as well as other matters relevant for stay and movement of aliens.

**CHAPTER V - REMOVAL OF AN ALIEN FROM THE COUNTRY****Part A. Expulsion****Article 56  
(Expulsion measure)**

1. Expulsion is the measure instructing an alien to leave BiH and prohibiting him/her to enter and stay in BiH for a certain period, which cannot be less than one year or more than ten years.
2. The decision on expulsion of aliens from the BiH territory shall be issued by the competent organisational unit of the Ministry *ex officio*, at the proposition of the court, other organisational unit of the Ministry or the MUP.
3. The period of expulsion shall commence on the day of issuing a final decision. The time spent in prison (detention) or under supervision shall not be counted towards the term of this measure.
4. The decision on expulsion shall specify the deadline for voluntary enforcement of the decision, which cannot be longer than 15 days.

**Article 57  
(Reasons for imposing the expulsion measure)**

1. The measure of expulsion from BiH may be imposed against an alien 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 his/her visa has been annulled or revoked by a final and binding decision, but his/her residence has not been cancelled,
  - c) 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 asylum application has been taken, while he/she has neither acquired the right of residence in accordance with this Law nor has he/she acquired the BiH citizenship,
  - d) the decision on withdrawal or release from BiH citizenship has become final and binding, but he/she has not realised the right of residence in accordance with this Law,
  - e) if he/she has violated or attempted to violate regulations relating to the BiH border crossing, regardless of whether the violation has occurred at entry to or exit from BiH,
  - f) if his/her right of residence or his/her residence permit has been cancelled by a final and binding decision in accordance with this Law, while he/she has not left the BiH territory within the stated deadline,
  - g) if there is a final and binding decision based on which he/she has been found guilty for the crime of trading narcotics, weapons, trafficking or smuggling of human beings, terrorism, money laundry, or any other way of organised, cross-border and trans-national crime, while his/her sentence has not been followed by the security measure of his/her expulsion from the BiH territory,

- h) if he/she has been sentenced by the court in BiH to more than four years of imprisonment for any other crime, but his/her sentence has not been followed by the security measure of his/her expulsion from the BiH territory,
  - i) if his/her presence constitutes a threat to public order or national security of BiH.
2. While assessing whether an alien shall be subject to the expulsion measure from the BiH territory and/or while taking the decision on duration of that measure, the competent organizational unit of the Ministry is obliged to carefully review all circumstances, evidence and facts relevant for issuing the decision, in accordance with the principles of the BiH Law on Administrative Procedure (BiH Official Gazette, number 29/02).

#### **Article 58**

##### **(Execution of the decision on expulsion)**

1. An appeal against the decision on expulsion may be filed with the Ministry within 15 days from the date of notification of the decision.
2. A final decision on expulsion shall be executed by the competent organizational unit of the Ministry which has issued the first instance decision by undertaking measures for forcible removal of the alien from BiH, if necessary in co-operation with other organizational units of the Ministry or the MUP and in accordance with this Law.

#### **Article 59**

##### **(Special cases of expulsion)**

1. Exceptionally, at the reasoned proposition of the State ministry or the competent MUP, the Council of Ministers of BiH may, while resolving individual cases, take the decision on expulsion of the alien from BiH if they have assessed that his/her expulsion is necessary in the interest of public order or is based on reasons of national security in the sense of provision of Article 1 paragraph 2 of Protocol 7 to the European Convention on Protection of Human Rights and Fundamental Freedoms.
2. The decision referred to in paragraph 1 of this Article cannot be executed contrary to requirements referred to in Article 60 of this Law.

### **Part B. Provisions of protection**

#### **Article 60**

##### **(Principle of *non-refoulement*)**

Aliens shall not be returned or expelled in any manner whatsoever to the frontier of territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, regardless of whether or not they have formally been granted asylum. The prohibition of return or expulsion shall also apply to persons in respect of whom there is a reasonable suspicion for believing that they would be in danger of being subjected to torture or other

inhuman or degrading treatment or punishment. Aliens may not be sent to a country where they are not protected from being sent to such a territory either.

**Article 61**  
**(Special procedure)**

1. When an alien has expressed reasons referred to in Article 60 of this Law, the procedural authority shall refer the case to the Ministry for the purpose of initiating the procedure for verifying the justification of his/her statement and determining the existence of conditions required for granting asylum in the sense of Article 76 or for granting temporary residence on humanitarian grounds in the sense of Article 79 of this Law.
2. The decision on expulsion may be executed only after the decision issued in the sense of paragraph 1 of this Article becomes final and binding.

**Part C. Forcible removal of an alien from the country**

**Article 62**  
**(Conclusion on authorisation of the enforcement)**

1. An alien may be forcibly removed from BiH.
2. Forcible removal of an alien from BiH shall be carried out *ex officio* by the organisational unit of the Ministry which has made the decision on expulsion of the alien or by the organisational unit on the territory of which the alien whose stay is illegal has been found, brought and retained, by taking the conclusion on authorisation of the enforcement.
3. The conclusion on authorisation of the enforcement shall be taken without any delay and at the latest within seven days from the date the decision has become enforceable and shall be immediately communicated to the alien.
4. The conclusion shall specify the manner, the time and the place for enforcement of the decision.
5. An appeal against the conclusion may be filed with the Ministry within 15 days from the date of notification.
6. The appeal does not stay the execution of the conclusion.

**Article 63**  
**(Restriction clauses)**

1. Where court proceedings have been initiated against an 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 final and binding sentence to imprisonment imposed against the alien is fully served, except in probation cases.
3. If there exist reasons for forcible removal of an alien prescribed in this Law, the alien shall not be forcibly removed from the country 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, having been a victim of trafficking of human beings or of any other form of an organised, cross-border or trans-national 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 35 paragraph 2 of the present Law for as long as those circumstances are present.
4. Forcible removal of an alien from the country shall not be commenced if the alien has decided to leave the BiH territory by himself/herself or with the assistance of international governmental or non-governmental organisations and has provided an adequate guarantee for such a decision within the deadline defined in the decision on expulsion.

**Article 64**  
**(Repatriation country)**

1. If enforcement of the decision is not subject to restrictions referred to in Article 60 of this Law, an alien who has been expelled shall be sent to his/her country of origin or to the country wherefrom he/she arrived in BiH.
2. The alien shall be communicated to which country he/she will be sent.

**Article 65**  
**(Repatriation costs)**

1. An alien is obligated to pay his/her travel costs to the place where he/she is being sent.
2. If it has been determined that the alien does not have funds necessary to pay his/her travel costs to the sending place, the travel costs shall be covered by:
  - a) a person who has issued a letter of guarantee or invitation for the purpose of entry of the alien,
  - b) a natural or artificial person, association or organisation that has employed the alien, although he/she did not have a work permit,
  - c) a natural or artificial person that has employed an alien based on his/her work permit,
  - d) an authority that has issued a work permit,
  - e) a bank that has provided a guarantee for the means of non-cash payment,
  - f) the Chamber of Commerce which has certified a business invitation,
  - g) a travel agency or association which has issued a voucher,
  - h) BiH.

3. The obligation of payment of costs referred to in paragraph 2 of this Article shall be determined in a form of the decision by the Seat Office of the Ministry *ex officio*. The decision is considered as final in the administrative procedure.
4. The alien shall be placed under supervision pending his/her departure from BiH, while all the costs related to realisation of supervision shall be covered by the bodies referred to in paragraph 2 of this Article, which have provided guarantees for entry and stay of the alien in BiH.
5. If none of the bodies referred to in paragraph 2 items a) through g) of this Article is able to cover the costs, they shall be covered by BiH, through the engagement of resources intended for special purposes of the Ministry.

The Ministry shall invoke the resources spent for the intended purpose from the bodies referred to in paragraph 2 items a) through g) of this Article in a relevant procedure.

#### **Article 66 (By-law)**

The Ministry shall by way of a by-law further regulate the manner, the process and the procedure for forcible removal of aliens from BiH, as well as for covering the repatriation costs.

### **CHAPTER VI - RECEPTION OF ALIENS AND SUPERVISION**

#### **Part A. Institutions specialised for the reception of aliens**

#### **Article 67 (Structure of institutions)**

1. Immigration centres, asylum centres, centres for accommodation of victims of trafficking of human beings and other institutions specialised for the reception of aliens may be established for the purpose of implementing the present Law.
2. At the proposition of the Ministry, the BiH Council of Ministers shall, by way of by-laws determine the title and the type of the institution specialised for the reception of aliens, the method of their administration, finance requirements, operational standards, the method of providing special conditions for beneficiaries of specialised institutions, insurance of supervision of aliens against whom a supervision measure has been imposed, as well as other issues relevant for the operation of a certain type of a specialised institution.
3. Prescribed special conditions for institutions specialised for the reception of aliens shall fulfil the requirements ensuing from the Constitution and international standards relating to the treatment of beneficiaries of those specialised institutions.
4. The operation of the institution specialised for the reception of aliens shall be monitored by the Ministry.

**Part B. Placing an alien under supervision****Article 68  
(Imposing supervision)**

1. Supervision may be imposed against an alien for the purpose of ensuring the enforcement of the decision on expulsion, cancellation of residence or for other reasons prescribed by the Law,
2. Supervision shall be imposed against an alien when there are reasonable grounds to believe that:
  - a) the alien shall escape or otherwise prevent the execution of the decisions referred to in paragraph 1 of this Article,
  - b) free and unrestricted movement of the alien might jeopardise the national security or public order and rule of law in BiH,
  - c) for the purpose of executing actions referred to in Article 28 paragraph 3, 30, 47 paragraph 4 and 65 paragraph 4 of this Law.
3. For the same reasons, supervision may also be imposed against an alien admitted under international agreement on co-operation in delivering and admitting persons whose stay is illegal.

**Article 69  
(Decision on placing an alien under supervision)**

1. The decision on placing an alien under supervision shall be taken by the competent organisational unit of the Ministry and communicated to the alien without any delay, at the same time when executing the decision.
2. The decision referred to in paragraph 1 of this Article shall incorporate the ruling on placement of the alien under supervision, the ruling on accommodation of the alien in a specialized institution, date, hour and intended period of accommodation, as well as the ruling on the body obligated to cover the accommodation costs and the costs of forcible removal from the country. Each ruling contained in the disposition of the decision must be separately and fully explained and contain all the reasons relevant for taking the decision.
3. Based on the decision of the competent organisational unit of the Ministry, an alien may be kept under supervision not more than 30 days.

**Article 70  
(Appeal)**

1. An appeal against the decision on placing an alien under supervision may be lodged with the Ministry within three days from the date of notification of the decision.
2. The appeal does not stay the execution of the decision.

3. The Ministry is obligated to take a decision upon the appeal within seven days from the date of its receipt.

#### **Article 71**

##### **(Execution of the decision and extension of supervision)**

1. The measure of placing an alien under supervision shall be carried out by accommodating the alien in an institution specialised for the reception of aliens.
2. The alien shall remain under supervision until the moment of his/her forcible removal from the country or until the reasons that have constituted grounds for his/her placement under supervision are considerably changed.
3. Upon the expiration of the deadline referred to in Article 69 paragraph 3 of this Law, the alien may be kept under supervision only based on the decision of the head of the basic organizational unit of the Seat Office of the Ministry which is competent for aliens and asylum. The supervision may be extended up to three months the most if there exist conditions for imposing supervision referred to in Article 68 of this Law. Hence, the total period of supervision imposed against an alien may not be longer than 4 months.
4. The basic organizational unit of the Seat Office of the Ministry competent for aliens and asylum shall, as long as supervision is in force, undertake all necessary measures in order to reduce the duration of the supervision to its minimum.
5. No appeal is allowed against the decision on the extension of supervision of an alien.

### **CHAPTER VII – ASYLUM**

#### **Part A. Conditions for granting asylum**

#### **Article 72**

##### **(Definition of the term “refugee”)**

1. Under this Law, asylum shall be granted to:
  - a) an alien who according to the definition stated in Article 1A(2) of the 1951 Convention Relating to the Status of Refugees and Article 1 of the 1967 Protocol, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself to the protection of that country; or
  - b) to an alien who, not having a nationality and being outside the country of his/her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

**Article 73**  
**(Exclusion)**

1. Provisions of Article 72 of this Law shall not apply to an alien with respect to whom there are serious reasons for believing that:
  - a) he/she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes,
  - b) he/she has committed a serious non-political crime outside the country of his/her refuge before his/her entry to that country has been approved,
  - c) he/she has been guilty of acts contrary to purposes and principles of the United Nations.
2. Asylum may be denied to an alien who has been recognised as a refugee by another country or who has found effective protection in another country and is able to return to that country and re-avail himself/herself of such protection.

**Part B. Procedure and competent bodies**

**Article 74**  
**(Request for asylum)**

1. An alien may lodge the request for asylum with the competent organisational unit of the Ministry or the MUP.
2. The request for asylum, accompanied with all supporting documentation, must be forwarded to the Seat Office of the Ministry without any delay.
3. The Ministry shall issue an attestation of the request for asylum to the asylum applicant, which shall be considered as a residence permit pending a final and binding decision upon his/her request.
4. The attestation referred to in previous paragraph cannot be used for crossing the State border.

**Article 75**  
**(Illegal entry and stay)**

No penalty shall be imposed against an asylum applicant coming directly from a territory where his/her life or freedom was threatened on account of his/her illegal entry or presence in the country, on the condition to that he/she registers himself/herself without delay with the authorities referred to in Article 74 paragraph 1 of this Law and expresses justified reasons for his/her illegal entry or presence.

**Article 76**  
**(Procedure and competency for issuing decisions)**

1. Requests for asylum shall be considered and decisions taken and issued by the basic organisational unit competent for asylum, which is fully qualified in the field of asylum and refugee law, in the Seat Office of the Ministry.

2. The decision shall be taken independently, individually, objectively and impartially after finalisation of a complete interview procedure where all facts, circumstances and evidence relevant for taking the decision have been determined. An applicant must be given the opportunity to present all the circumstances known to him/her, to have access to all available evidence, as well as to suggest presentation of particular evidence.
3. An alien shall be given an opportunity to follow the course of the procedure through an interpreter if he/she does not know the language used during the procedure, as well as to use the services of a legal or another counsellor. The obligation of the conductor of the procedure is to inform the applicant about all the rights and obligations stemming from the Law.
4. Recognition of a refugee status is not dependent on the production of any particular formal evidence.
5. Any decision taken upon validity of the request for asylum must be fully reasoned and shall be communicated to the applicant in person.
6. The decision must clearly demonstrate the right of complaint and the deadline.

**Article 77**  
**(Protection of data)**

Asylum procedures shall be confidential, as well as all data related to that procedure.

**Article 78**  
**(Complaint)**

1. No appeal is allowed against the decision referred to in Article 76 of this Law.
2. A complaint shall stay the execution of the decision.

**Article 79**  
**(Provisions on protection)**

An asylum applicant who has exhausted all available legal remedies and whose request has been rejected with a final and binding decision, but with respect to whom it has been determined that he/she nevertheless cannot be removed from the BiH territory for the reasons prescribed in Article 60 of the Law, shall be issued a temporary residence permit reasoned on humanitarian grounds in the sense of Article 35 paragraph 1 item d) of the Law.

**Article 80**  
**(Reception of asylum applicants)**

The Ministry shall make provision for adequate conditions for reception of aliens seeking asylum, notably in the area of accommodation, food, access to health care and education.

**Part C. Rights and obligations of a refugee****Article 81  
(Rights of a refugee)**

1. An alien to whom asylum has been granted shall acquire a refugee status and shall be entitled to rights defined in Articles 3 through 34 of the 1951 Convention Relating to the Status of Refugees.
2. Provisions of the 1951 Convention Relating to the Status of Refugees shall be without prejudice to the provisions of this and other special domestic laws or international instruments which are already in force and to which BiH is a Contracting Party, in case that they accord a more favourable treatment to aliens with recognised refugee status.
3. The alien holding a refugee status shall be entitled to reside on the BiH territory for as long as his/her asylum is valid and for that purpose he/she shall be issued a residence permit for refugees. A refugee status shall in principle be extended to the spouse and minor children as well as other close family members if they are living in the same household on the BiH territory. Entry visas shall be provided to family members of an alien to whom asylum has been granted. An alien with recognised refugee status shall be entitled to work and shall have access to education, health care and social welfare on the same conditions as BiH citizens.
4. The Ministry, in co-operation with the BiH Ministry for Human Rights and Refugees and the BiH Ministry for Civil Affairs, shall ensure access to rights referred to in Articles 81 and 82 of this Law for persons with recognised refugee status.

**Article 82  
(Documents for refugees)**

1. Identity papers shall be issued to an alien holding a refugee status and staying in the BiH territory.
2. The alien holding a refugee status, who does not have a valid travel document or is unable to obtain a travel document from the country of his/her habitual residence may be issued a travel document for refugees for the purpose of travelling abroad and returning to the BiH territory, unless there exist compelling reasons of national security and public order.
3. A travel document for an alien holding a refugee status shall be issued for the period of validity of not less than two years and shall be extendable.

**Part D. Cessation of asylum****Article 83  
(Reasons for cessation of asylum)**

1. Asylum granted in BiH shall cease for an alien:

- a) who has voluntarily re-availed himself/herself of the protection of the State of his/her citizenship, or
  - b) who, having lost the citizenship of another country has voluntarily re-acquired it, or
  - c) who has acquired a new citizenship and enjoys the protection of the country of this new citizenship, or
  - d) who has voluntarily re-established himself/herself in the State which he/she left or outside which he/she remained owing to fear of persecution, or
  - e) who can no longer, because the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself/herself of the protection of the State of his/her citizenship, or
  - f) who being stateless can no longer, because the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, refuse to avail himself/herself of the protection of the State of former habitual residence, or
  - g) who has obtained the citizenship of BiH.
2. If an alien is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself/herself of the protection of the country of his/her citizenship as referred to in item e) of paragraph 1 and/or the country of his former habitual residence as referred to in item f) of paragraph 1 of this Article, the stated items shall not be applied.

**Article 84**  
**(Competency and complaint)**

1. The decision on cessation of asylum shall be taken by the basic organisational unit competent for asylum matters referred to in Article 76 of this Law *ex officio*, at the request of organisational units of the Ministry or the MUP.
2. No appeal is allowed against the decision referred to in paragraph 1 of this Article.
3. The complaint filed by an alien with the competent court shall stay the execution of the decision.
4. The alien may neither be expelled nor forcibly removed from the BiH territory before the decision referred to in paragraph 1 of this Article becomes final and binding.

**Part E. Mass influx**

**Article 85**  
**(Mass influx of aliens)**

1. In cases of mass influx, or imminent mass influx, of aliens in need of international protection, the BiH Council of Ministers may, in consultation with UNHCR, issue special regulations for their protection.
2. The BiH Council of Ministers shall, in consultation with UNHCR, cancel special regulations referred to in paragraph 1 of this Article, after cessation of the reasons

justifying their existence, which shall be without prejudice to the rights of aliens who by way of these regulations have been granted protection, to seek asylum.

**Part F. Co-operation with UNHCR**

**Article 86  
(Co-operation with UNHCR)**

1. Asylum applicants shall be given the opportunity, at all stages of the procedure, to communicate with UNHCR or with other refugee organisations that may be working on behalf of UNHCR, and vice versa. The representative of UNHCR shall be informed of the course of the procedure, of the decisions of the competent authorities and shall be given opportunity to submit his/her observations.
2. The competent authorities shall co-operate with UNHCR in accordance with Article 35 of the 1951 Convention Relating to the Status of Refugees.

**Article 87  
(By-law)**

1. The Ministry shall by way of a by-law further regulate issues regulated in Chapter VII of this Law in co-operation with the BiH Ministry for Human Rights and Refugees and the BiH Ministry for Civil Affairs.
2. The method and the procedure for registration of refugees, as well as the principles of data protection relating to refugees shall be established in the act referred to in paragraph 1 of this Article.

**CHAPTER VIII – SPECIAL PROVISIONS**

**Article 88  
(Protection of rights)**

No provision of this Law shall preclude any person covered by this Law from exercising and protecting his/her rights before any responsible authority in accordance with the Constitution and legislation of BiH, its Entities and Brčko District of BiH.

**Article 89  
(Privileges and immunities)**

1. Provisions of this Law, with the exception of the Chapter relating to asylum, shall not be applicable to diplomatic and consular agents or other persons covered by the Convention on Privileges and Immunities.
2. Foreign citizens, who reside temporarily in BiH based on their service in diplomatic–consular and other representations of foreign states in BiH, shall regulate their residence in BiH through the BiH MFA.

3. The MFA in co-operation with the Ministry shall by way of by-laws further define conditions and procedures for regulating the issue of residence of persons referred to in paragraph 2 of this Article.

**Article 90**  
**(Application of provisions)**

Chapters II, III, IV, V, VI, and IX, except for Articles 21, 29, 35 paragraph 1 item (d), 51, 53, 60, 67 and Article 75 of this Law, shall not apply to asylum applicants until their applications are rejected by a final and binding decision, persons to whom asylum has been granted, or persons to whom temporary residence has been granted on humanitarian grounds in line with Article 79 of this Law.

**Article 91**  
**(Official records)**

1. In accordance with this Law, official records shall be kept on:
  - a) aliens with permanent or temporary residence,
  - b) travel documents for aliens issued in accordance with this Law,
  - c) aliens who have been refused entry,
  - d) aliens who have been expelled, whose residence has been cancelled, or to whom the measure of prohibition of entering BiH has been pronounced,
  - e) executed measures with regard to aliens,
  - f) aliens who have been forcibly removed from the BiH territory,
  - g) reported missing travel documents of aliens,
  - h) issued personal documents,
  - i) residence registration, residence de-registration and change of address,
  - j) aliens who have been granted asylum or aliens who have submitted the application seeking asylum.
2. Official records shall be kept by the authority which is under this Law competent for acting upon certain matters, and which shall forward any information obtained from the records to the Ministry.

**Article 92**  
**(Central database)**

1. A central database of aliens shall be established within the Ministry for the purpose of recording and monitoring the stay and movement of aliens and of persons who have sought asylum or have been granted asylum in BiH.
2. The MFA, the MUP and the organisational units of the Ministry shall have access to data obtained from the records referred to in paragraph 1 of this Article, if so necessary for executing their duties stipulated by this Law.
3. Processing of all data referred to in this Law shall be subject to provisions and principles of data protection valid in BiH.
4. Organizational units of the Ministry competent for the control of the State border crossing shall keep special records where data relating to aliens' identity, the number

and type of their travel document as well as the purpose and reasons for their entry to, stay in and exit from BiH shall be entered.

**Article 93**  
**(By-law)**

The Ministry shall by way of by-laws further regulate rules on keeping records, using and accessing records and the central database of aliens.

**CHAPTER IX - PENALTY PROVISIONS**

**Article 94**

1. A natural person who has rendered accommodation services to an alien shall be fined with 200.00 KM - 1,000.00 KM for the offence if:
  - a) he/she has failed to report, within a prescribed deadline, stay of the alien to whom accommodation services have been rendered (Article 54),
  - b) he/she has failed to keep records or has kept improperly the records of aliens to whom accommodation services have been rendered or if he/she has failed to keep the book of aliens within the deadline as prescribed (Article 54),
  - c) If the OSL (*note of the translator: authorised or responsible official*) of the Ministry or the MUP has failed to enable access to the book of aliens and to provide information related to aliens, their stay and movement (Article 54 paragraph 5).
2. An artificial person who has rendered accommodation services to an alien shall be fined with 500.00 KM – 2,000.00 KM for the offence referred to in paragraph 1 of this Article. The responsible official of the artificial person shall be fined with 200.00 KM - 1,000.00 KM.

**Article 95**

1. An alien shall be fined with 100.00 KM to 500.00 KM for the offence if:
  - a) he/she has refused to show the document verifying his/her identity or his/her right to enter and stay to the authorised official or if he/she does not have the document to verify his/her identity (Article 9),
  - b) he/she has not registered his/her permanent or temporary residence, change of his/her home address in the place of permanent residence within a prescribed deadline or if he/she has failed to de-register his/her permanent and/or temporary residence before his/her departure (Article 53),
  - c) if he/she has failed to submit the application for issuing an identity card for aliens with the competent authority within the deadline prescribed by law (Article 45 paragraph 2).

**Article 96**

1. An alien shall be fined with 100.00 KM to 1,500.00 KM or sentenced to imprisonment of 30 days for the offence if:

- a) he/she has entered BiH contrary to the requirements prescribed in provisions of Articles 10 and 11 of the present Law,
  - b) if he/she has stayed in BiH longer than specified in his/her visa, temporary residence permit or Article 13 paragraph 2 of the Law,
  - c) if he/she has failed to leave the territory of BiH within the deadline determined in this Law or in the decision of the competent authority,
  - d) if he/she has failed to act in accordance with regulations of Article 43 paragraph 3 of this Law.
2. An authorised official responsible for the control of the State border crossing may at the border crossing collect the fine in the amount of 100.00 KM for each day of delay for the offence referred to in item c) of paragraph 1 of this Article, if the alien has not exceeded his/her stay for more than five days and is able to justify the reasons for this delay.

#### Article 97

1. A natural person shall be fined with 100.00 KM – 1,500.00 KM or sentenced to imprisonment of 30 days for the offence if:
  - a) he/she has provided incorrect data relating to issuance of a letter of guarantee, based on which the alien has violated provisions of this Law (Article 14).
2. An artificial person which has provided incorrect data in connection with:
  - a) issuance of an invitation (Article 14),
  - b) issuance of a guarantee for non-cash payments (Article 14),
  - c) issuance of a travel voucher (Article 14),shall be fined with 500.00 KM – 5,000.00 KM.

A responsible person within the artificial person shall be fined with 300.00 KM – 3,000.00 KM or sentenced to imprisonment of 60 days.

#### Article 98

1. An artificial person shall be fined with 1,000.00 KM – 3,000.00 KM or sentenced to imprisonment of 60 days for the offence if:
  - a) if he/she has failed to execute voluntarily the obligation of covering the travel/departure costs of an alien to the place/country to which he/she is being sent (Article 65),
  - b) if he/she has refused to cover the travel costs of the alien, in spite of the existence of a final decision of the Ministry referred to in Article 65 paragraph 3 of the Law.
2. An artificial person who has failed to execute the obligations referred to in previous paragraph shall be fined for the offence with 5,000.00 KM – 12,000.00 KM. A responsible person shall be fined with 3,000.00 KM – 8,000.00 KM.

**Article 99**  
**(Competency)**

The offence courts established by Entity regulations and/or by regulations of Brčko District of BiH, shall be competent for conducting the offence proceedings in accordance with provisions of this Law, for as long as a special law provides otherwise.

**CHAPTER X - TRANSITIONAL AND FINAL PROVISIONS**

**Article 100**  
**(Acquired rights)**

1. All persons who have already acquired a refugee status or who have been granted temporary admission within the BiH territory before the entry into force of this Law shall have that status recognised in the sense of this Law.
2. The Ministry may, with the consent of the BiH Council of Ministers, by way of by-laws arrange conditions for further regulation of that status.

**Article 101**  
**(Pending cases)**

All cases upon which a final and binding decision has not been taken before entering into force of this Law shall be finalised in accordance with provisions of regulations that were in force at the time of initiating the proceedings.

**Article 102**  
**(Competency of organisational units of the MUP)**

Pending the commencement of the operation of organizational units of the Ministry competent for the implementation of the policy of immigration and asylum, monitoring of stay and movement of aliens, all administrative matters which are under this Law in the competency of the organizational unit of the Ministry shall be performed by relevant organisational units of the MUP.

**Article 103**  
**(Establishment of the Office)**

1. The Ministry is obliged to establish basic and internal organizational units competent for the implementation of the policy of immigration and asylum, movement and stay of aliens in BiH, within six months from the date of entering into force of the present Law, in accordance with the Law on Ministries and Other Bodies of Administration in BiH (BiH Official Gazette, number 05/03) and the Decision on Principles for the Organisation of the Ministry and Other Bodies of Administration of BiH.
2. The Ministry shall take over the archives of relevant MUP units that in accordance with Article 102 of this Law execute functions under the competency of the Ministry. With regard to taking over the equipment and other resources of those

units, an agreement may be made with the competent Entity authority and/or the authority of Brčko District of BiH.

3. The employees of the MUP who have executed functions under the competency of the Ministry shall be transferred into the organisational units of the Ministry, providing that they fulfil special conditions prescribed in the Law on Civil Service in BiH Institutions and in a by-law referred to in Article 3 of the present Law, while other employees shall be deployed by the MUP in accordance with their acts on internal organization and post systematization.

**Article 104**  
**(Cessation of validity of regulations)**

1. On the day this Law enters into force the following laws shall no longer apply:
  - Law on Immigration and Asylum (BiH Official Gazette, number 23/99),
  - Law on Movement and Stay of Aliens (RS Official Gazette, number 20/92),
  - Decrees on movement and stay of aliens (R BiH Official Gazette, number 47/95),
  - Book of Rules on Conditions and Method of Entry of Aliens, Issuance of Visas and Other Travel Documents and Issuance of Residence Permits to Aliens in BiH (BiH Official Gazette, number 29/01),
  - Decision on the Establishment and Composition of the Appellate Body (BiH Official Gazette, number 12/01), and the Decision on Proclaiming Aliens Undesirable in Bosnia and Herzegovina (BiH Official Gazette, number 6/02),
  - Regulations of Brčko District which regulate the field of immigration and asylum, monitoring of movement and stay of aliens,
  - Cantonal laws on monitoring the movement and stay of aliens,
  - all by-laws of Cantonal and Entity authorities which regulated procedures related to registration, monitoring of movement and stay of aliens.
- 2) The authorities determined in this Law are obligated to adopt by-laws within six months from the day of entering into force of this Law.

**Article 105**  
**(Entry into force)**

This Law shall enter into force on the eighth day after its publication in the Official Gazette of BiH and shall be published in Official Gazettes of the Entities and Brčko District of BiH.

BiH PA number 79/03  
18 July 2003  
Sarajevo

President  
of the House of Representatives  
of the BiH parliamentary Assembly  
Šefik Džaferović

President  
of the House of Peoples  
of the BiH Parliamentary Assembly  
Velimir Jukić