

UNOFFICIAL, CONSOLIDATED VERSION

(Official Gazette of Bosnia and Herzegovina, 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 8/10, 47/14, 22/15, 40/15)¹

Pursuant to Article IV 4a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the session of the House of Peoples held on 18 June 2003 and at the session of the House of Representatives held on 27 June 2003, adopted the following:

CRIMINAL CODE OF BOSNIA AND HERZEGOVINA

GENERAL PART

CHAPTER I

Basic terms

Article 1

(1) The criminal legislation of Bosnia and Herzegovina comprises the criminal justice provisions contained in this Code and in other laws of Bosnia and Herzegovina.

(2) The territory of Bosnia and Herzegovina means the land, coastal seas and water surfaces within its borders, as well as the air space above them.

(3) An official person means: a person elected or appointed to legislative, executive and judicial office within Bosnia and Herzegovina and in other national and administrative institutions or services performing particular administrative, expert and other duties, within the rights and obligations of the authority that has founded them; a person who continuously or occasionally executes official duty in the aforementioned administrative bodies or institutions, an authorised person in a business enterprise or another legal entity that has been entrusted with the execution of public authorities by law or another regulation promulgated based on the law, who performs certain duties within the framework of the given authority; and other persons who are performing specific official duties, with or without remuneration, as stipulated by law or another regulation promulgated based on the law.

(4) Where an official person has been alleged as the perpetrator of a particular criminal offence, the persons referred to in paragraph 3 of this Article may be considered the perpetrators of such

1. The Criminal Code of Bosnia and Herzegovina was imposed by decision of the High Representative and published in the Official Gazette of Bosnia and Herzegovina, 3/03. Correction to the text of the imposed Code was published in the Official Gazette of BiH, 32/03. The text of the Code, adopted by the BiH Parliamentary Assembly, was published in the Official Gazette of BiH, 37/03. The underlined text represents the amendments published in the Official Gazette of BiH, 54/04. The underlined text in *italic* represents the amendments published in the Official Gazette of BiH, 61/04. The double underlined text represents the amendments published in the Official Gazette of BiH, 30/05. The text in *italic, double underlined, bold* represents the amendments published in the Official Gazette of BiH, 53/06. The text in *bold, italic* represents the amendments published in the Official Gazette of BiH, 56/06. The Law on the Adoption of Amendments to the Criminal Code, which were published in the Official Gazette of BiH, 54/04, was published in the Official Gazette of BiH, 32/07. The text in *bold, italic, double underline* represents the amendments to the Criminal Code published in the Official Gazette of BiH, 8/10. The text in *italic* represents the amendments published in the Official Gazette of BiH, 47/14. The text in *italic, blue*, represents the amendments published in the Official Gazette of BiH, 22/15. The text underline, italic, blue represents the amendments published in the Official Gazette of Bosnia and Herzegovina, 40/15.

offences provided that it does not follow from the elements of the particular criminal offence or a particular regulation that their perpetrator may only be one of the specified persons.

(5) A responsible person means a person in a business enterprise or another legal entity who, in the line of duty or on the basis of specific authorisation, has been entrusted with a portfolio related to the implementation of law or regulations promulgated based on law or a general act of a business enterprise or another legal entity in property management and administration, or is related to managing a production or some other business process or supervision of such processes. The official person as defined in paragraph 3 of this Article is also considered to be a responsible person when it comes to actions where a responsible person is alleged as a perpetrator, providing that such actions are not stipulated as a criminal offence under the chapter dealing with criminal offences against official and other responsible duties, or as criminal offences of an official person stipulated under some other chapter of this Code or another law of Bosnia and Herzegovina.

(6) In cases where an official or responsible person has been alleged as the perpetrator of a criminal offence, all persons referred to in paragraphs 3 and 5 of this Article may be the perpetrators of such an offence provided that it does not follow from the elements of a particular criminal offence that their perpetrator may only be one of the specified persons.

(7) A foreign official person means a member of a legislative, executive, administrative or judicial body of a foreign state, a public official of an international organisation or of its bodies, a judge or another official person of an international court.

(8) An international officer means a civilian employee employed with an international organisation or agency.

(9) A lay judge means a person who is a member of a collegiate body having a responsibility to decide on the culpability of an accused person in trial proceedings.

(10) An arbitrator means a person who is, on the basis of an arbitration agreement, called upon to make a legally binding decision in a dispute submitted to him by the parties to the agreement.

(11) A military person, for the purpose of this Code, means a military professional or a person on the reserve force, while in service with the Armed Forces of Bosnia and Herzegovina, pursuant to the Law on Service in the Armed Forces of Bosnia and Herzegovina.

(12) Where an official person is alleged as a person against whom a criminal offence was committed, the notion of an official person, for the purpose of this Code, in addition to persons defined under paragraph 3 of this Article, shall also include the military person referred to in paragraph 9 of this Article.

(13) A child, for the purpose of this Code, means a person who has not reached 14 years of age.

(14) A juvenile, for the purpose of this Code, means a person who has not reached 18 years of age.

(15) A legal entity, for the purpose of this Code, stands for Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska, the Brčko District of Bosnia and Herzegovina, canton, city, municipality, local community, any organisational form of a business enterprise and all forms of association of business enterprises, institutions, crediting and other

banking institutions or property and personal insurance institutions, as well as other financial institutions, funds, political organisations and associations of citizens or other associations that may acquire funds and utilize them in the same way as any other institution or agency that acquires and utilizes funds and that is legally recognised as a legal entity.

(16) A business enterprise, for the purpose of this Code, means corporations, companies, firms, partnerships and any other organizational form registered for performing business activities.

(17) An association means any kind of associating by three or multiple persons.

(18) Multiple persons means at least two persons.

(19) A body of people constitutes at least five persons.

(20) A group of people means an assemblage of at least three individuals that are associated for the purpose of perpetrating criminal offences, wherein each of the individuals gives his contribution to the perpetration of the criminal offence.

(21) A structured group means a group of individuals formed for the immediate perpetration of a criminal offence, which need not have formally defined roles for its members, continuity of its membership, or a developed structure.

(22) A group for organised crime means a group of three or more persons, existing over a period of time and acting in concert, with the aim of perpetrating one or multiple criminal offences that under the law carry a sentence of imprisonment exceeding three years or a more serious penalty, with the aim of acquiring property gain.

(23) A terrorist group means a structured group of at least three persons, formed and operational over a period of time with the aim of perpetrating one of the criminal offences of terrorism.

(24) Proceeds of crime mean any economic benefit that has directly or indirectly resulted from a criminal offence, and consists of any property.

(25) Property includes the property of any kind, whether it comprises physical objects or rights, either tangible or intangible, movable or immovable, and legal documents or instruments proving the right to property or an interest in relation to such property.

(26) Secret information means information in the field of public safety, defence, foreign affairs and interests, intelligence and security services or the interests of Bosnia and Herzegovina, communications and other systems of importance for national interests, judiciary, projects and plans important for major defence and intelligence-security activities, scientific, research, technological, economic and financial affairs of importance for the security and functioning of the institutions of Bosnia and Herzegovina, and/or security structures at all levels of the state organisation of Bosnia and Herzegovina, which has been designated as secret by law, another regulation or general act issued by a relevant authority on the basis of the law, or which has been designated as secret information in accordance with the laws and regulations on the protection of secret information. This term also includes secret information of another country, international or regional organisation.

(27) A document denotes any object that is suitable or designated to serve as evidence of some fact relevant to legal relations.

- (28) Money denotes coins and paper bank notes that are legal tender in Bosnia and Herzegovina or in a foreign country.
- (29) Instruments of value also include foreign instruments of value.
- (30) Movable object includes, inter alia, any manufactured or accumulated energy used for producing light, heat or motion, as well as telephone and other impulses.
- (31) Means of transportation shall be so construed as to include any vessel, vehicle or aircraft, as well as any other conveyance that may be used for transportation in land, water and air traffic, regardless of the type of drive.
- (32) Force also includes the use of hypnosis or the use of opiate substances for the purpose of rendering a person, against his will, unconscious, or incapacitated for resistance.
- (33) Narcotic drug means any medical drug or hazardous substance with addictive and psychotropic characteristics, or any substance that can easily be converted into such substances, provided it is subject to control under the international convention ratified by Bosnia and Herzegovina, or any substances declared as narcotic drugs by a relevant institution of Bosnia and Herzegovina or by a relevant institution of the Entities.
- (34) Weapons and military equipment are items and means listed under the Law on Production, Export and Import of Weapons and Military Equipment.
- (35) Radioactive material means nuclear material and other radioactive substances that contain nuclides, which decay spontaneously (a process accompanied by emission of one or more types of ionizing radiation such as alpha, beta and neutron particles and gamma rays), which due to their radiological or fissile properties may cause death, serious bodily injury or large scale damage to property or the environment.
- (36) Nuclear material is plutonium, other than the one with the concentration of isotopes of over 80% in plutonium 238 or uranium 233; uranium enriched with isotope 235 or 233; uranium containing the mixture of isotopes as found in nature, except in the form of ore or mineral residues, or any material that contains one or more of the above, where 'enriched uranium isotopes 235 or 233' stands for uranium containing isotope 235 or 233 or both, in an amount where the ratio of the sum of these isotopes to isotope 238 is greater than the ratio of isotope 235 to isotope 238 that is found in nature.
- (37) Nuclear device means any nuclear explosive device or any device that disperses radioactive material or emits radiation that, due to its radiological properties, may cause death, serious bodily injury or large scale damage to property or the environment.
- (38) Nuclear facility means any nuclear reactor, including a reactor mounted on a vessel, vehicle, aircraft or space object used as a source of energy to run such a vessel, vehicle, aircraft or space object, or for any other purpose, or any facility or means used for production, storage, processing or transport of radioactive materials.
- (39) Fixed platform means an artificial island, device or implement that is permanently attached to the seabed for the purpose of research or exploitation of natural resources or other economic purposes.
- (40) Explosive device means:
- a) an explosive or incendiary weapon or device that is designed to or may cause death,

serious bodily injury or substantial material damage; or

b) a weapon or a device that is designed to or may cause death, serious bodily injury or large-scale damage by release, expansion or influence of toxic chemicals, biological agents or toxins or similar substances or radiation or radioactive materials.

(41) The Holocaust is the crime of genocide and crimes against humanity committed by the German Nazi regime during World War II, recognized as such in the final and binding decisions or judgements of the International Military Tribunal established under the London Agreement of 8 August 1945.

(42) Mass grave means an unmarked site containing two or more bodies or human remains or a site where such bodies or human remains were subsequently moved to, created as a result of the commission of criminal offences prescribed under Articles 171 through 180 of this Code.

(43) The use of grammatical genders, masculine or feminine, shall be so construed as to include both genders of natural persons.

CHAPTER II

BASIC PROVISIONS

Basis and Limits of Criminal Justice Compulsion

Article 2

(1) Criminal offences and criminal sanctions shall be prescribed only for acts threatening or violating personal liberties and human rights, as well as other rights and social values guaranteed and protected by the Constitution of Bosnia and Herzegovina and international law in such a manner that their protection could not be realized without criminal justice compulsion.

(2) The prescription of criminal offences, as well as the types and the range of criminal sanctions, shall be based upon the necessity for criminal justice compulsion and its proportionality to the degree of the danger against personal liberties, human rights and other basic values.

Principle of Legality

Article 3

(1) Criminal offences and criminal sanctions shall be prescribed only by law.

(2) No punishment or any other criminal sanctions may be imposed on any person for an act which, prior to being perpetrated, has not been defined as a criminal offence by law or international law, and for which no punishment has been prescribed by law.

Principle of guilt

Article 3a

No punishment or any other criminal sanctions may be imposed on a person unless guilty of the committed criminal offence.

Time Constraints Regarding Applicability

Article 4

(1) The law that was in effect at the time when the criminal offence was perpetrated shall apply to the perpetrator of the criminal offence.

(2) If the law has been amended on one or more occasions after the criminal offence was perpetrated, the law that is more lenient to the perpetrator shall apply.

Trial and Punishment for Criminal Offences pursuant to the General Principles of International Law

Article 4a)

Articles 3 and 4 of this Code shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of international law.

Types of Criminal Sanctions

Article 5

Criminal sanctions are: punishments, suspended sentence, security measures and educational measures.

Purpose of criminal sanctions

Article 6

The purpose of criminal sanctions is as follows:

- a) protecting the society from the commission of criminal offences through deterrence so that legal order is respected and criminal offences prevented, as well as preventing perpetrators from perpetrating new criminal offences and encouraging their rehabilitation;
- b) providing protection and redress to victims of a criminal offence.

Restrictions on Execution of Criminal Sanctions

Article 7

In the execution of a criminal sanction, certain rights of the perpetrator of a criminal offence may be denied or restricted only to an extent commensurate with the nature and the content of the sanction, and only in a manner which provides for the respect of the perpetrator's personality and his human dignity in compliance with the law and international law.

CHAPTER III

APPLICATION OF CRIMINAL JURISDICTION OF BOSNIA AND HERZEGOVINA

Applicability of Criminal Legislation of Bosnia and Herzegovina to Those Perpetrating Criminal Offences within the Territory of Bosnia and Herzegovina

Article 8

(1) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence within its territory.

(2) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence aboard a domestic vessel, regardless of its location at the time of perpetration of the offence.

(3) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates a criminal offence aboard a domestic civil aircraft while airborne, or aboard a domestic military aircraft, regardless of its location at the time of perpetration of the offence.

Applicability of Criminal Legislation of Bosnia and Herzegovina to Offences Committed Outside the Territory of Bosnia and Herzegovina

Article 9

(1) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who, outside of its territory, commits:

- a) any criminal offence against the integrity of Bosnia and Herzegovina prescribed in Chapter XVI of this Code (Criminal Offences against the Integrity of Bosnia and Herzegovina);
- b) the criminal offence of Counterfeiting Money or of Counterfeiting Securities of Bosnia and Herzegovina, the criminal offence of Counterfeiting Instruments of Value or of Forgery of Trademarks, Measures and Weights issued on the basis of regulations of the institutions of Bosnia and Herzegovina, as defined in Articles 205 through 208 of this Code;
- c) a criminal offence which Bosnia and Herzegovina is bound to punish according to the provisions of international law and international treaties or intergovernmental agreements;
- d) a criminal offence against an official or responsible person in the institutions of Bosnia and Herzegovina, in relation to his office.

(2) The criminal legislation of Bosnia and Herzegovina shall apply to a citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates any criminal offence.

(3) The criminal legislation of Bosnia and Herzegovina shall apply to an alien who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence not included in paragraph 1 of this Article against Bosnia and Herzegovina or its national.

(4) The criminal legislation of Bosnia and Herzegovina shall apply to an alien who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence against a foreign state or a foreign national which under this legislation carries a punishment of imprisonment for a term of five years or a more severe punishment.

(5) In the cases referred to in paragraphs 2 and 3 of this Article, the criminal legislation of Bosnia and Herzegovina shall apply only if the perpetrator of the criminal offence is found in or extradited to Bosnia and Herzegovina, while in the case referred to in paragraph 4 of this Article, only if the perpetrator is found in the territory of Bosnia and Herzegovina and is not extradited to another country.

Applicability of Criminal Legislation of Bosnia and Herzegovina to Juveniles

Article 10

The criminal legislation of Bosnia and Herzegovina shall apply to juveniles pursuant to Chapter X (Rules on Educational Recommendations, Educational Measures and Punishment of Juveniles) of this Code and other laws of Bosnia and Herzegovina.

Applicability of Criminal Legislation of Bosnia and Herzegovina to Legal Entities

Article 11

The criminal legislation of Bosnia and Herzegovina shall apply to legal entities pursuant to Chapter XIV (Liability of Legal Entities for Criminal Offences) of this Code and other laws of Bosnia and Herzegovina.

Precluding the Application of Criminal Legislation of Bosnia and Herzegovina to Children

Article 12

The criminal legislation of Bosnia and Herzegovina shall not apply to children.

Applicability of the General Part of This Code

Article 13

- (1) The provisions of the General Part of this Code shall apply to all criminal offences prescribed by the laws of Bosnia and Herzegovina.
- (2) The provisions of the General Part of this Code shall apply to juveniles, unless otherwise specified by law.
- (3) The provisions of the General Part of this Code shall apply to legal entities, unless otherwise specified by this Code.

CHAPTER IV
STATUTE OF LIMITATIONS
Criminal Prosecution Statute of Limitations

Article 14

- (1) Unless otherwise stipulated by this Code, criminal prosecution shall not be instituted when the following time periods have elapsed since the perpetration of a criminal offence:
- a) thirty-five years in the case of a criminal offence carrying the punishment of long-term imprisonment;
 - b) twenty years in the case of a criminal offence carrying the punishment of imprisonment for a term exceeding ten years;
 - c) fifteen years in the case of a criminal offence carrying the punishment of imprisonment for a term exceeding five years;
 - d) ten years in the case of a criminal offence carrying the punishment of imprisonment for a term exceeding three years;
 - e) five years in the case of a criminal offence carrying the punishment of imprisonment for a term exceeding one year;
 - f) three years in the case of a criminal offence carrying the punishment of imprisonment for a term not exceeding one year or a fine.
- (2) If several punishments are prescribed for a single criminal offence, the period covered by the statute of limitations shall be determined according to the most severe punishment prescribed.

Running and Interruption of Criminal Prosecution Statute of Limitations Period

Article 15

- (1) The running of the period set by the statute of limitations to institute criminal prosecution shall commence on the day on which the criminal offence was perpetrated. *The running of the period set by the statute of limitations for criminal offences of permanent character shall commence at the moment of cessation of the state of unlawfulness.*
- (2) The running of the period set by the statute of limitations shall be suspended for any time during which under the law no criminal prosecution can be instituted or continued.
- (3) The running of the period set by the statute of limitations shall be interrupted by any procedural motion that relates to the prosecution of the perpetrator on account of the criminal offence perpetrated.
- (4) The running of the period set by the statute of limitations shall also be interrupted if the perpetrator, before the period covered by the statute of limitations has elapsed, has perpetrated a new criminal offence of the same gravity or graver.
- (5) After each interruption, the period set by the statute of limitations shall commence anew.
- (6) Criminal prosecution shall in any case be barred by the statute of limitations when twice as

much time has elapsed as provided by the law for the criminal prosecution to be barred by the statute of limitations.

Statute of Limitations Regarding the Execution of Punishment

Article 16

Unless otherwise stipulated in this Code, the imposed sentence shall not be executed when the following time periods have elapsed from the date of finality of the judgement by which the punishment was imposed:

- a) thirty-five years if the punishment of long-term imprisonment has been imposed;
- b) twenty years if the punishment of imprisonment for a term exceeding ten years has been imposed;
- c) fifteen years if the punishment of imprisonment for a term exceeding five years has been imposed;
- d) ten years if the punishment of imprisonment for a term exceeding three years has been imposed;
- e) five years if the punishment of imprisonment for a term exceeding one year has been imposed;
- f) three years if the punishment of imprisonment for a term not exceeding one year or a fine has been imposed.

Statute of Limitations regarding the Execution of Accessory Punishment and Security Measures

Article 17

- (1) The execution of a fine as an accessory punishment shall be barred after the lapse of two years from the date of finality of the judgement by which such punishment has been imposed.
- (2) The execution of the security measure of mandatory psychiatric treatment and the security measure of confiscation shall be barred after the lapse of five years from the date of finality of the judgement by which these measures have been ordered.
- (3) The execution of the security measure of ban on carrying out a certain occupation, activity or duty shall be barred after the lapse of the period for which this measure has been ordered.

Running and Interruption of Period Set by Statute of Limitations Regarding the Execution of Punishments and Security Measures

Article 18

- (1) The running of the period set by the statute of limitations to execute the punishment shall commence on the date of finality of the judgement by which such punishment has been imposed, and in the case of revocation of a suspended sentence, on the date of finality of the decision revoking the suspended sentence.
- (2) The period set by the statute of limitations shall not run during the time the punishment cannot

be executed pursuant to law.

(3) The running of the period set by the statute of limitations shall be interrupted with any action taken by a competent body with regard to the execution of the punishment.

(4) After each interruption, the period set by the statute of limitations shall commence anew.

(5) The period set by the statute of limitations to execute the punishment shall expire in any case when twice as much time has elapsed as is set by the statute of limitations for the execution of punishments.

(6) The provisions set forth in paragraphs 2 through 5 of this Article shall apply accordingly to the bar to the execution of security measures.

Criminal Offences Not Subject to Statute of Limitations

Article 19

Criminal prosecution and the execution of a sentence shall not be subject to the statute of limitations for criminal offences of genocide, crimes against humanity and war crimes, or for other criminal offences that, pursuant to international law, are not subject to the statute of limitations.

CHAPTER V

CRIMINAL OFFENCE

Criminal Offence

Article 20

A criminal offence is an unlawful act that is prescribed as a criminal offence by law, the characteristics of which are specified by law and for which a criminal sanction is prescribed by law.

Manner of Perpetrating Criminal Offences

Article 21

(1) A criminal offence can be perpetrated by an act or an omission.

(2) A criminal offence is perpetrated by omission when the perpetrator, who is legally obliged to avert the consequence of a criminal offence defined by law, fails to do so, and such failure to act is tantamount in its effect and significance to the perpetration of such an offence by an act.

Time of Perpetrating Criminal Offences

Article 22

A criminal offence is perpetrated at the time when the perpetrator acted or ought to have acted, irrespective of the time when the consequence of his action or omission to act occurred.

Place of Perpetrating Criminal Offences

Article 23

(1) A criminal offence is perpetrated both at the place where the perpetrator acted or ought to have acted, and at the place where the consequence of his action or omission occurred fully or partially.

(2) A criminal offence in the case of a punishable attempt is perpetrated both at the place where the

perpetrator acted or ought to have acted, and at the place where the consequence of his action or omission fully or partially ought to have occurred according to the perpetrator's intent.

(3) A criminal offence in cases of complicity is perpetrated at the place specified in paragraph 1 of this Article and at the place the accomplice acted or ought to have acted, or at the place where the consequence of his action or omission ought to have occurred according to the accomplice's intent.

Insignificant Offence

Article 23a

An offence shall not be considered criminal, although it contains elements of a criminal offence prescribed under the law if, due to the nature and the gravity of the offence, or the manner of its perpetration, or minor or inexistent harmful consequences, or the acquired material gain and low degree of culpability on the part of the perpetrator, it amounts to an insignificant offence.

Necessary Defence (Self-Defence)

Article 24

(1) An act committed in necessary defence shall not be considered a criminal offence.

(2) A defence is considered to be necessary if it is absolutely necessary for the defender to avert from himself or from another a coinciding or direct and imminent illicit attack, providing such a defence is proportionate to the attack.

(3) If the perpetrator exceeds the limits of necessary defence, the punishment may be reduced, and if the excess occurs due to strong irritation or fright caused by the attack, the punishment may be remitted.

Extreme Necessity

Article 25

(1) An act committed out of extreme necessity shall not be considered a criminal offence.

(2) An act is committed out of extreme necessity if committed for the purpose of averting from himself or from another an immediate or direct and imminent and unprovoked danger that could not have been averted in any other way, provided that the harm resulting from such an act did not exceed the harm threatened.

(3) If the perpetrator himself has negligently provoked the danger, or has exceeded the limits of extreme necessity, the punishment may be reduced, and if he exceeded the limits under particularly mitigating circumstances, the punishment may be remitted.

(4) There is no extreme necessity if the perpetrator was under an obligation to expose himself to danger.

Force and Threat

Article 25a

(1) An offence shall not be considered criminal if committed under the influence of an irresistible force (vis absoluta).

(2) A less severe sanction may be imposed on a perpetrator who committed a criminal offence under the influence of a resistible force or a threat (vis compulsiva or vis moralis).

(3) In the case referred to in paragraph 1 of this Article, the person who applied an irresistible force shall be deemed the perpetrator.

Attempt

Article 26

(1) Whoever intentionally commences the execution of a criminal offence, but does not complete such offence, shall be punished for the attempted criminal offence if the criminal offence in question carries **the sentence of imprisonment for a term of three years or a more severe punishment**, and for the attempt of another criminal offence if the law expressly prescribes punishment for the attempt itself.

(2) An attempted criminal offence shall be punished within the range of punishment prescribed for the criminal offence itself, but the punishment may also be reduced.

Inappropriate Attempt

Article 27

If a person tries to perpetrate a criminal offence by inappropriate means or against an inappropriate object, he may be relieved of punishment or punished less severely.

Voluntary Abandonment of Attempt

Article 28

(1) A perpetrator who voluntarily abandons the execution of a punishable attempt may be relieved of punishment.

(2) In the event of voluntary abandonment of a punishable attempt, the perpetrator shall be punished for the acts that constitute another separate criminal offence.

Co-perpetration

Article 29

If multiple persons who, by participating in the perpetration of a criminal offence or by taking some other act by which a decisive contribution has been made to its perpetration, have jointly perpetrated a criminal offence, they shall each be punished as prescribed for the criminal offence.

Incitement

Article 30

(1) Whoever intentionally incites another to perpetrate a criminal offence, shall be punished as if he has perpetrated the offence himself.

(2) Whoever intentionally incites another to perpetrate a criminal offence that carries **a sentence of imprisonment for a term of three years or a more severe punishment**, although the criminal offence has never been attempted, shall be punished as for the attempted criminal offence.

(3) The incitement to the commission of a criminal offence shall particularly mean the following: pleading, inducement or persuasion, demonstrating the benefits of the commission of the criminal offence, giving or promising gifts, misuse of subordination or dependency relations, leading or keeping a person in a state of mistake of fact or mistake of law.

Accessory

Article 31

(1) Whoever intentionally assists another in perpetrating a criminal offence shall be punished as if he has perpetrated the offence himself, although the punishment may be reduced.

(2) The following, in particular, shall be considered as assisting in the perpetration of a criminal offence: giving advice or instructions as to how to perpetrate a criminal offence, supplying the perpetrator with tools for perpetrating the criminal offence, removing obstacles to the perpetration of the criminal offence, and promising, prior to the perpetration of the criminal offence, to conceal the existence of the criminal offence, to hide the perpetrator, the tools used for perpetrating the criminal offence, the traces of the criminal offence or the objects acquired by the perpetration of the criminal offence.

Limitations in Culpability and Punishability of Accomplices

Article 32

(1) The co-perpetrator shall be considered guilty within the limits set by his own intent or negligence, and the inciter and the accessory within the limits of their own intent.

(2) The court shall relieve of punishment a co-perpetrator, inciter or accessory who has voluntarily prevented the perpetration of a criminal offence.

(3) The personal relations, characteristics and circumstances to which the law attaches the exclusion of culpability, or by reason of which it permits or provides for the remission of punishment or its mitigation, may be taken into consideration only if they are inherent to such perpetrators, co-perpetrators, inciters or accessories.

CHAPTER VI

CULPABILITY

Existence of Guilt

Article 33

(1) Guilt exists if a perpetrator was mentally capable at the time of the commission of a criminal offence and acted with intent.

(2) Guilt with regard to a criminal offence also exists if the perpetrator acted out of negligence, where the law so prescribes explicitly.

Mental Capacity

Article 34

(1) A mentally incapable person is one who, at the time of perpetrating the criminal offense, was incapable of comprehending the significance of his acts or controlling his conduct due to a lasting or temporary mental disease, temporary mental disorder or retardation (mental incapacity).

(2) If the capacity of the perpetrator to comprehend the significance of his act, and his ability to control his conduct was considerably diminished due to any of the mental conditions referred to in paragraph 1 of this Article, he may be punished less severely (considerably diminished mental capacity).

(3) The perpetrator shall be considered **guilty** if, by consuming alcohol or narcotic drugs or otherwise, he brought himself into a state of not being capable to comprehend the significance of his actions or controlling his conduct, and if prior to bringing himself into such a condition, the act was intended by him, or there was negligence on his part in relation to the criminal offence in cases where **guilt** is prescribed by law for such an offence even if perpetrated by negligence.

(4) The state of considerably diminished mental capacity to which the perpetrator has brought himself in the way provided under paragraph 3 of this Article may not constitute grounds for the reduction of punishment.

Intent

Article 35

(1) A criminal offence may be perpetrated with direct or indirect intent.

(2) The perpetrator acts with direct intent when a perpetrator was aware of his act but still desired its perpetration.

(3) The perpetrator acts with indirect intent if he was aware that a prohibited consequence might result from his act or omission to act but nevertheless consented to its occurrence.

Negligence

Article 36

(1) A criminal offence may be perpetrated by voluntary or involuntary negligence.

(2) The perpetrator acts with voluntary negligence if he was aware that a prohibited consequence might have occurred as a result of his action or omission to act, but carelessly assumed that it would not occur or that he would be able to avert it.

(3) The perpetrator acts with involuntary negligence if he was unaware that a prohibited consequence might have occurred, although, under the circumstances and according to his personal characteristics, he should and could have been aware of such possibility.

Mistake of Fact

Article 37

(1) A perpetrator shall not be considered guilty of the criminal offence committed under an irreversible mistake of fact.

(2) Mistake of fact is irreversible if at the time of the perpetration of a criminal offence the perpetrator was not aware of one of its elements defined by law, or if he mistakenly believed that circumstances existed which, if they had actually existed, would have rendered such conduct permissible.

(3) If the perpetrator's mistake of fact resulted from his negligence, there shall exist a criminal offence perpetrated by negligence, provided that the criminal offence in question is punishable by law also when perpetrated by negligence.

Mistake of Law

Article 38

A perpetrator of a criminal offence, who had justifiable reasons for not knowing that his conduct was prohibited, may be relieved of punishment or punished less severely.

CHAPTER VII

PUNISHMENT

Purpose of Punishment

Article 39

The purpose of punishment is as follows:

- a) to express the community's denunciation of a perpetrated criminal offence;
- b) to deter the perpetrator from perpetrating criminal offences in the future and encourage his rehabilitation;
- c) to deter others from perpetrating criminal offences; and
- d) to raise the awareness of citizens of the danger of criminal offences and of the fairness of punishing perpetrators.

Types of Punishment

Article 40

The following may be imposed on a perpetrator guilty of a criminal offence:

- a) imprisonment;
- b) long-term imprisonment;
- c) fine.

Principal and Accessory Punishment

Article 41

- (1) Imprisonment may be imposed only as a principal punishment.
- (2) A fine may be imposed both as a principal and as an accessory punishment.
- (3) If both punishments are prescribed for a criminal offence, only one of them may be imposed as a principal punishment.
- (4) For criminal offences motivated by greed, a fine may be imposed as an accessory punishment even when it is not specifically prescribed by the law or in cases where the law prescribes that the perpetrator shall be punished by imprisonment or a fine, and the court decides to impose imprisonment as a principal punishment.

Imprisonment

Article 42

(1) Imprisonment may not be shorter than 30 days or longer than 20 years.

(2) Imprisonment shall be imposed in full years and months; however, the punishment of imprisonment for a term not exceeding six months may also be measured in full days.

(3) Imprisonment referred to in this Article may not be imposed on juveniles. The punishment of juvenile imprisonment may be imposed on juveniles under the conditions prescribed by Chapter X of this Code (Rules on Educational Recommendations, Educational Measures and Punishment

of Juveniles). Juvenile imprisonment, by its purpose, nature, duration and manner of execution, represents a special punishment of deprivation of liberty.

Substitution of Imprisonment

Article 42a

(1) A sentence not exceeding one year of imprisonment, upon request of the convicted person, shall be substituted by a fine to be paid as a one-off payment within 30 days.

(2) Imprisonment shall be replaced by a fine by having one day in prison equal to a daily amount of the fine or to 100 KM, if the fine is set in a specific amount.

(3) If a fine has not been paid within the deadline referred to in paragraph 1 of this Article, the court shall order that the imprisonment sentence be enforced. If a fine is paid only in part, the imprisonment shall be enforced in proportion to the amount unpaid.

Long-term Imprisonment

Article 42b

(1) For the gravest forms of serious criminal offences perpetrated with intent, long-term imprisonment for a term of 21 to 45 years may be prescribed.

(2) Long-term imprisonment shall never be prescribed as the sole principal punishment for a particular criminal offence.

(3) Long-term imprisonment shall not be imposed on a perpetrator who was under the age of 21 at the time of perpetrating the criminal offence.

(4) Long-term imprisonment shall be imposed in full years only.

(5) If long-term imprisonment has been imposed, pardon may be granted only after three-fifths of the punishment have been served.

Community Service

Article 43

(1) When the court has fixed and imposed the sentence of imprisonment for a term not exceeding one year, it may concurrently decide that the sentence imposed, with the consent of the accused, be replaced with community service.

(2) The decision to replace imprisonment with community service shall be based upon the assessment that, considering all the circumstances determining the type and range of the sentence, the execution of imprisonment would not be necessary to achieve the purpose of punishment, but at the same time a suspended sentence would not suffice to accomplish the general purpose of criminal sanctions.

(3) Community service shall be imposed for a period of time proportional to the imposed sentence of imprisonment, from a minimum of 10 to a maximum of 90 working days. The time-frame for performing community service may neither be shorter than one month nor longer than one year.

(4) In determining the length of community service, as well as the time-frame for its performance, the court shall take into consideration the imposed imprisonment that is being substituted and the perpetrator's situation regarding his personal circumstances and employment.

(5) When, upon the expiry of the set period, the convicted person has not completed or has only partly completed the community service, the court shall render a decision on the execution of imprisonment for a period proportional to the unfulfilled community service.

(6) The substitution of imprisonment with community service may also be applied in the case of substituting a fine with imprisonment pursuant to Article 47 of this Code (*Substitution of Fine*).

(7) Placement in community service as to the type and place of work shall be made by the Ministry of Justice of Bosnia and Herzegovina, taking into consideration the capabilities and the skills of the convicted person.

Release on Parole

Article 44

(1) A convicted person who has served one half of his sentence and, exceptionally, a convicted person who has served one third of his sentence, may be released from serving the sentence of imprisonment providing he does not perpetrate another criminal offence before expiration of the term of the sentence (parole, conditional release).

(2) A convicted person who has served one-half of his sentence may be relieved of serving the sentence of imprisonment if in the course of serving his sentence he has improved to the point where he can reasonably be expected to behave himself well after he has been relieved of serving the sentence of imprisonment, and particularly not to perpetrate criminal offences. In deciding whether to release a convicted person on parole, account shall be taken of his conduct during the term of the sentence, as well as other circumstances indicating that the purpose of the punishment has been achieved.

(3) A convicted person who has served one third of his sentence may be released on parole, provided that the conditions referred to in paragraph 1 of this Article exist, and provided that special circumstances relating to the personality of the convicted person manifestly indicate that the purpose of the punishment has been achieved.

(4) The person sentenced to a long-term imprisonment may be granted conditional release after serving three-fifths of the sentence imposed.

Revocation of Parole

Article 45

(1) The court shall order revocation of parole if the convicted person, while on parole, perpetrates one or more criminal offences for which a sentence of imprisonment *exceeding one year or a more severe punishment* has been imposed.

(2) The court may order revocation of parole if the parolee perpetrates one or more criminal offences for which a punishment of imprisonment for a term of up to one year has been imposed. In deciding whether to revoke the parole or not, the court shall take into special consideration the similarity in the nature of the acts perpetrated, their significance, the motives for which they were perpetrated, as well as other circumstances indicating the appropriateness of revoking parole.

(3) When the court orders revocation of parole, it shall impose punishment considering the previously imposed sentence as an already fixed punishment. The part of the punishment that the convicted person served under the previous judgement shall be credited towards the service of the subsequent sentence, whereas the period of time spent on parole shall not be credited.

(4) The provisions set forth in paragraphs 1 through 3 of this Article shall also apply when the parolee is tried for a criminal offence perpetrated prior to his release on parole.

(5) If the parolee has been convicted to imprisonment for a term of up to one year, and if the court does not order revocation of parole, the time covered by the release on parole shall be extended for a period of time the convicted person spent serving the sentence of imprisonment.

Fines

Article 46

(1) Fines are imposed in daily amounts, and if that is not possible, then in a fixed amount.

(2) If a fine is imposed in daily amounts, it may be a minimum of five and maximum of three hundred sixty daily amounts, whereas for offences motivated by greed, a maximum imposable fine is one thousand five hundred daily amounts, except in the cases foreseen by this Code.

(3) If a fine is imposed in a fixed amount, a minimum amount may not be less than 500 KM and a maximum one may not exceed 100,000 KM, whereas for offences motivated by greed, a maximum fixed amount imposable may not exceed 1,000,000 KM, except in the cases foreseen by this Code.

(4) In imposing a fine for offences motivated by greed, the court may determine a fine exceeding the maximum amount prescribed in paragraphs 2 and 3 of this Article if the value of the proceeds of crime exceeds the amount of 1,000,000 KM. In such a case, a fine may be imposed in an amount that may not exceed the double amount of the value of the proceeds of crime for which the offender is being fined.

(5) The court shall determine the number of daily amounts of fine in accordance with the general rules on meting out penalties. The court shall determine daily amounts according to the amount of the offender's daily income calculated on the basis of his three-month net salary and his other income and family responsibilities. In determining the amount, the court shall rely on the data not older than six months at the moment of imposing the fine.

(6) If the data referred to in the preceding paragraph are unavailable to the court, they shall be provided by the accused within the deadline set by the court but not later than by the completion of the criminal trial. If the circumstances relevant for the determination of a daily amount of fine are not made available to the court by the end of the criminal trial, a fine shall be imposed in a fixed amount wherein the general rules for meting out penalties shall apply.

(7) A minimum daily amount of fine is 1/60 and a maximum amount is 1/3 of the most recent officially published average net salary of employees in Bosnia and Herzegovina, as published by the Agency for Statistics of Bosnia and Herzegovina.

(8) The fine payment deadline shall be set in the judgement, and it may not be shorter than fifteen days nor longer than six months, but in justified cases the court may allow that the convicted person pay the fine in instalments, wherein the payment deadline may not exceed one year.

(9) Fines imposed and collected under this Code shall constitute part of the revenue of the budget of Bosnia and Herzegovina.

Substitution of Fine

Article 47

- (1) Fine shall not be collected by force.
- (2) If a fine is not paid within the period set in the judgement, the court shall, without delay, make a decision to substitute the fine by imprisonment.
- (3) The fine shall be substituted by imprisonment in such a way that each daily amount started, or if the fine was imposed in a fixed amount each 100 KM started, be substituted by one day of imprisonment, provided that it does not exceed the punishment prescribed for that particular offence.
- (4) If the convicted person has only paid a portion of the fine, the remaining amount will be proportionally converted into imprisonment, and if he then pays the remaining amount the execution of imprisonment shall cease.

General Principles of Meting Out Punishments

Article 48

- (1) The court shall impose the punishment within the limits provided by law for that particular offence, having in mind the purpose of punishment and taking into account all the circumstances bearing on the magnitude of punishment (extenuating and aggravating circumstances), and, in particular: the degree of guilt, the motives for perpetrating the offence, the degree of danger or injury to the protected object, the circumstances in which the offence was perpetrated, the past conduct of the perpetrator, his personal situation and his conduct after the perpetration of the criminal offence, as well as other circumstances related to the personality of the perpetrator.
- (2) In ruling on the punishment for the criminal offence in recidivism, the court shall take into special consideration whether the most recent offence is of the same type as the previous one, whether both acts were perpetrated from the same motive, and it will also consider the period of time which has elapsed since the pronouncement of the previous conviction, or since the punishment has been served or pardoned.
- (3) In fixing a fine, the court shall also take into consideration the situation of the perpetrator in terms of property, taking into account the amount of his salary, his other income, his assets and his family obligations.

Reduction of Punishment

Article 49

The court may set the punishment below the limit prescribed by the law, or impose a more lenient type of punishment:

- a) when law provides the possibility of reducing the punishment;
- b) when the court finds the existence of highly extenuating circumstances, which indicate that the purpose of punishment can be achieved by a lesser punishment.

Limitations in Reduction of Punishment

Article 50

(1) When the conditions for the reduction of punishment referred to in Article 49 of this Code (*Reduction of Punishment*) exist, the punishment shall be reduced within the following limits:

- a) if a sentence of imprisonment of ten or more years is prescribed as the lowest punishment for the criminal offence, it may be reduced to five years of imprisonment;
- b) if a sentence of imprisonment of three or more years is prescribed as the lowest punishment for the criminal offence, it may be reduced to one year of imprisonment;
- c) if a sentence of imprisonment of two years is prescribed as the lowest punishment for the criminal offence, it may be reduced to six months of imprisonment;
- d) if a sentence of imprisonment of one year is prescribed as the lowest punishment for the criminal offence, it may be reduced to three months of imprisonment;
- e) if a sentence of imprisonment not exceeding one year is prescribed as the lowest punishment for the criminal offence, it may be reduced to thirty days of imprisonment;
- f) if a sentence of imprisonment is prescribed for a criminal offence without indication of the lowest limit, the court may impose a fine in lieu of imprisonment;
- g) if a fine is prescribed as the lowest limit for the punishment for a criminal offence, it may be reduced to five daily amounts and if it is imposed in a fixed amount, it may be reduced to 500 KM.

(2) When deciding on the extent of reduction of punishment in accordance with the rules set forth in paragraph 1 of this Article, the court shall take into special consideration the minimum and the maximum punishment prescribed for the particular criminal offence.

Relief of Punishment

Article 51

(1) The court may relieve the perpetrator from punishment when such a possibility is explicitly provided by law.

(2) In cases when the court is allowed to relieve the perpetrator from punishment, the court may decide to reduce the punishment having no regard to the limitations on the reduction of punishment prescribed in Article 49 of this Code (*Reduction of Punishment*).

Special Relief of Punishment for Criminal Offences Perpetrated by Negligence

Article 52

The court may relieve the perpetrator from punishment for a criminal offence perpetrated by negligence when the consequences of the criminal offence perpetrated affect the perpetrator so severely that imposing a punishment would in such a situation obviously not serve the purpose of punishment.

Concurrence of Criminal Offences

Article 53

(1) If the perpetrator has perpetrated multiple criminal offences by a single act or by multiple acts, for which he is being tried concurrently, the court shall first mete out the punishment for each of the offences separately, and then proceed with imposing a compound sentence of long-term imprisonment, compound sentence of imprisonment or a compound fine for all the offences taken together.

(2) The court shall adhere to the following rules in imposing compound punishment:

- a) **if the court has fixed a sentence of long-term imprisonment, or long-term imprisonment and imprisonment for the concurrent criminal offences, the compound sentence must be lengthier than each of the individual sentences, but must not exceed a period of 45 years;**
- b) if the court has fixed a sentence of imprisonment for the concurrent criminal offences, the compound sentence must be lengthier than each of the individual sentences, yet it may not be as lengthy as the sum of all imposed sentences, nor may it exceed a period of twenty years;
- c) **if the court has fixed a sentence of imprisonment exceeding ten years for two or more concurrent criminal offences, the court may impose a compound sentence of long-term imprisonment that must not be as lengthy as the sum of all individual punishments;**
- d) if for each of the offences perpetrated in concurrence a sentence of imprisonment not exceeding three years is prescribed, the compound sentence may not exceed eight years;
- e) if fines only have been imposed by the court for the criminal offences in concurrence, the compound sentence must be lengthier than any individual imposed fine, but shall not reach the sum of all imposed fines.

(3) If the court has fixed sentences of imprisonment for some of the concurrent criminal offences, and fines for others, it shall impose a compound sentence of imprisonment and a single compound fine in accordance with the provisions set forth in subparagraphs b) through d) of paragraph 2 of this Article.

(4) The court shall impose an accessory punishment if it has been imposed for any one of the concurrent criminal offences, and if it has imposed multiple fines, it shall impose a single compound fine in accordance with the provisions set forth in subparagraph d), paragraph 2 of this Article.

(5) If the court has fixed a sentence of imprisonment and juvenile imprisonment for the concurrent criminal offences, it shall impose a sentence of imprisonment as a compound sentence, applying the rules set forth in subparagraphs b) and c) of paragraph 2 of this Article.

Continued Criminal Offence

Article 54

(1) The provisions of this Code regarding the concurrence of criminal offences shall not apply to a criminal offence arising out of the same transaction.

(2) A criminal offence arises out of the same transaction when the perpetrator intentionally perpetrates a number of identical criminal offences or offences of the same type which, according to

the manner of perpetration, the temporal connection and other material circumstances connecting them, constitute a whole.

(3) When a criminal offence arising out of the same transaction comprises offences with the same legal elements, the court shall choose the type and the range of the punishment prescribed for such a criminal offence. If criminal offences of the same type are at issue, the court shall choose the type and the range of punishment prescribed for the most serious of these offences.

Meting out Punishment to Convicted Persons

Article 55

(1) If a convicted person is tried for a criminal offence he had perpetrated before commencing to serve the previous sentence, or for a criminal offence he perpetrated while serving a sentence of imprisonment, long-term imprisonment or juvenile imprisonment, the court shall impose a compound punishment for all the criminal offences applying provisions set forth under Article 53 of this Code (*Concurrence of Criminal Offences*), taking the punishment from the earlier sentence as already fixed. The sentence or part of the sentence the convicted person had already served shall be credited towards the imposed sentence of imprisonment or long-term imprisonment.

(2) For criminal offences perpetrated during the course of serving the sentence of imprisonment, long-term imprisonment, or juvenile imprisonment, the court shall fix the perpetrator's punishment independently of the previous punishment in cases when the application of the provisions set forth under Article 53 of this Code would not achieve the purpose of punishment considering the duration of the non-served portion of the previous sentence.

Credit for the Period Spent in Custody and Credit for Punishment under Previous Sentence

Article 56

(1) The time spent in custody pending trial, as well as any deprivation of freedom related to the criminal offence, shall be credited towards the sentence of imprisonment, long-term imprisonment, juvenile imprisonment or the fine.

(2) In each counting of the credit, one day spent in custody pending trial, one day of deprivation of freedom, one day of juvenile imprisonment, one day of imprisonment, one day of long-term imprisonment and a fine of 100 KM, shall be deemed equal.

Credit for the Detention and Sentence Served Abroad

Article 57

The detention, deprivation of freedom in the course of an extradition procedure, as well as the punishment which the perpetrator served upon a judgement of a foreign court, shall be credited towards the sentence imposed by the domestic court for the same criminal offence, whereas if the punishments are not of the same kind, the deduction of the punishment served abroad shall be effected in a way the court finds fit.

C H A P T E R V I I I

SUSPENDED SENTENCE

Purpose of Suspended Sentence

Article 58

The purpose of a suspended sentence is to give to a perpetrator of a criminal offence an admonition with a threat of punishment (suspended sentence), which achieves the purpose of criminal sanctions by pronouncing a punishment without executing it, when the execution of punishment is not necessary to ensure legal protection.

Suspended Sentence

Article 59

- (1) When it imposes a suspended sentence, the court imposes a punishment on the perpetrator of a criminal offence, but at the same time it orders that the sentence shall not be carried out if the convicted person does not perpetrate another criminal offence over a period of time set by the court, which may not be shorter than one or longer than five years (probation period).
- (2) In deciding whether to impose a suspended sentence, the court shall, taking into account the purpose of the suspended sentence, pay special attention to the personality of the perpetrator, his conduct in the past, his behaviour after the perpetration of the criminal offence, the degree of guilt and other circumstances under which the criminal offence has been perpetrated.
- (3) A suspended sentence may be imposed when a perpetrator has been fined or sentenced to imprisonment for a term not exceeding two years.
- (4) No suspended sentence can be imposed for criminal offences for which a sentence of imprisonment for a term not exceeding one year cannot be imposed even after a reduction of punishment.
- (5) If the perpetrator has been sentenced to both imprisonment and a fine, the suspended sentence may be imposed either for both sentences or only for the sentence of imprisonment.
- (6) Security measures, ordered alongside a suspended sentence, shall be executed.

Obligations of the Person under Suspended Sentence

Article 60

- (1) Within a suspended sentence, the court may order the convicted person to fulfil the following obligations: restitution of the gain acquired by the perpetration of the criminal offence, compensation for the damage caused by the perpetration of the criminal offence, or fulfilment of other obligations provided for in the criminal legislation of Bosnia and Herzegovina.
- (2) The court shall set a specific time-frame for the fulfilment of the obligation referred to in paragraph 1 of this Article within the specified probation period.

Revocation of Suspended Sentence due to New Criminal Offence

Article 61

- (1) The court shall revoke the suspended sentence if during the probation period the convicted person perpetrates one or more criminal offences for which the sentence of imprisonment for a term

of two years or a more severe punishment had been imposed.

(2) If during the probation period the convicted person perpetrates one or more criminal offences for which the sentence of imprisonment for a term not exceeding two years or a fine has been imposed, the court shall decide whether to revoke the suspended sentence upon consideration of all circumstances related to the criminal offences perpetrated as well as to the perpetrator, particularly a possible similarity of the perpetrated offences, their significance and motives from which the offences have been perpetrated. In taking such a decision, the court is bound by the prohibition of imposing a suspended sentence if the perpetrator ought to receive a sentence of imprisonment for a term exceeding two years (Article 59, paragraph 3, of this Code, *Suspended Sentence*) for the criminal offences for which the suspended sentence was imposed and for new criminal offences.

(3) In case of revocation of a suspended sentence, the court shall impose one compound sentence for both the previously perpetrated and the new criminal offences, pursuant to the provisions of Article 53 of this Code (*Concurrence of Criminal Offences*), taking the revoked suspended sentence as an already fixed punishment.

(4) If the court does not revoke a suspended sentence, it may impose a suspended sentence or punishment for a newly perpetrated criminal offence. If the court decides that a suspended sentence should be imposed for the newly perpetrated criminal offence as well, the court shall apply the provisions set forth under Article 53 of this Code to impose one compound sentence for both the previously perpetrated and the new criminal offences, and it shall also determine one compound probation period which may not be shorter than one or longer than five years, commencing on the day the new judgement became final. If the court imposes a sentence of imprisonment for the new criminal offence, the period of time spent serving that sentence of imprisonment shall not be credited towards the probation period set by the suspended sentence for the previously perpetrated criminal offence.

Revocation of Suspended Sentence due to Previously Perpetrated Criminal Offence

Article 62

(1) The court shall revoke a suspended sentence in case that, after it was imposed, the court learned that the perpetrator had perpetrated a criminal offence prior to the imposition of the suspended sentence, and if it is deemed by the court that there would have not been sufficient grounds for the imposition of a suspended sentence had the existence of that offence been known. In such a case, the provision set forth in Article 61, paragraph 3, of this Code (*Revocation of Suspended Sentence due to New Criminal Offence*) shall apply.

(2) If the court does not revoke the suspended sentence, it shall apply the provision set forth in Article 61, paragraph 4, of this Code.

Revocation of Suspended Sentence Due to Failure to Fulfil Obligations Imposed

Article 63

(1) The court shall revoke the suspended sentence and order the execution of the imposed punishment if the convicted person, within the course of the set probation period, fails to fulfil the obligations imposed on him in cases where such obligations could have been fulfilled.

(2) In the case of impossibility to fulfil the obligation imposed, the court may extend the deadline for the fulfilment of the obligation, or may replace such obligation with another appropriate

obligation provided for in the criminal legislation of Bosnia and Herzegovina, or may relieve the convicted person of the obligation imposed.

Deadlines for Revocation of Suspended Sentence

Article 64

- (1) A suspended sentence may be revoked during the probation period.
- (2) If a convicted person perpetrates a criminal offence entailing revocation of the suspended sentence during the probation period, which the judgement found only after the expiration of the probation period, the suspended sentence may be revoked within one year after the probation period has expired.
- (3) If a convicted person fails to fulfil a certain obligation referred to in Article 60, paragraph 1, of this Code (*Obligations of the Person under Suspended Sentence*) within the set deadline, the court may revoke the suspended sentence within one year after the expiration of the probation period, and order the execution of the punishment imposed under the suspended sentence.

Suspended Sentence with Protective Guardianship

Article 65

- (1) The court may order that a perpetrator who has received a suspended sentence be placed under protective guardianship if, given the circumstances of the criminal offence, personality of the perpetrator, his previous conduct and his behaviour after the fact, it has arrived at the conclusion that protective guardianship would contribute to achieving more efficiently the purpose of suspended sentencing and social rehabilitation.
- (2) Protective guardianship encompasses measures of assistance, care, supervision and protection set under this Code, provided that protective guardianship may not last less than six months nor more than two years.

Scope of Protective Guardianship

Article 66

Protective guardianship may include the following obligations:

- a) treatment in a relevant health institution;
- b) refraining from intake of alcoholic drinks or opiates (intoxicating drugs);
- c) attending particular psychiatric, psychological or other counselling centres and acting in accordance with their instructions;
- d) training for a profession;
- e) accepting employment appropriate to the professional skills and abilities of the perpetrator;
- f) disposing with the salary and other income and property in an appropriate manner and in accordance with marital or family obligations.

Ordering Protective Guardianship

Article 67

- (1) Under the judgement, the court may impose one or multiple obligations set forth in Article 66 of this Code (*Scope of Protective Guardianship*), closely defining their scope.
- (2) When selecting the obligations from Article 66 of this Code, the court shall take into special consideration the age of the perpetrator, his general physical and mental condition, his life inclinations and habits, especially at home, in school or at work, the motives for which the criminal offence has been perpetrated and his conduct after the fact, his earlier life, personal and family circumstances, as well as other circumstances related to the personality of the perpetrator which are important for deciding on the measure of protective guardianship and its duration.
- (3) If during protective guardianship the court establishes that the purpose of the sentence has been achieved, it may terminate the protective guardianship even before its expiration.
- (4) If a convicted person who has been subjected to protective guardianship fails to fulfil the obligations imposed on him by the court, the court may warn him or may replace the earlier imposed obligations with others or extend the protective guardianship within the probation period, or may revoke the suspended sentence.

C H A P T E R IX

SECURITY MEASURES

Purpose of Security Measures

Article 68

The purpose of security measures is to remove situations or conditions that might influence a perpetrator to perpetrate criminal offences in the future.

Types of Security Measures

Article 69

The following security measures may be imposed on perpetrators of criminal offences:

- a) mandatory psychiatric treatment,
- b) mandatory medical treatment of addiction,
- c) ban on carrying out a certain occupation, activity or duty,
- d) confiscation.

Imposing Security Measures

Article 70

The court may impose one or multiple security measures on the perpetrator of a criminal offence, when grounds for imposing them exist under this Code.

Mandatory Psychiatric Treatment

Article 71

- (1) The security measure of mandatory psychiatric treatment may be imposed on a perpetrator who has perpetrated a criminal offence *in a state of considerably diminished or diminished mental capacity*, if there is a danger that the causes of such a state may in the future also induce the perpetrator to perpetrate another criminal offence.
- (2) The security measure of mandatory psychiatric treatment may, under the conditions provided for in paragraph 1 of this Article, be carried out during imprisonment or along with community service, or a suspended sentence.
- (3) The security measure of mandatory psychiatric treatment shall last until the reasons for which it has been imposed cease to exist, but not longer than until the sentence of imprisonment has been served or the community service completed or until the expiry of the probation period accompanying the suspended sentence.
- (4) Under the conditions provided for in paragraph 2 of this Article, after a convicted person has been released on parole, his mandatory psychiatric treatment may continue outside a medical institution. If he does not continue the treatment, his release on parole shall be revoked.
- (5) The perpetrator of a criminal offence who does not submit himself to psychiatric treatment during the probation period set in his suspended sentence may be treated pursuant to the provision of Article 63 of this Code (*Revocation of Suspended Sentence Due to Failure to Fulfil Obligations Imposed*).

Mandatory Addiction Treatment

Article 72

- (1) The security measure of mandatory addiction treatment may be imposed on a perpetrator who has perpetrated a criminal offence under the decisive influence of addiction to alcohol or narcotic drugs, if there is a risk that he will repeat the offence due to such an addiction.
- (2) Under the conditions provided for in paragraph 1 of this Article, the security measure of mandatory addiction treatment may be imposed along with the same criminal sanction, for the same duration, and in the same manner as prescribed in this Code for the security measure of mandatory psychiatric treatment.
- (3) Under the conditions provided for in Article 71, paragraph 2, of this Code (*Mandatory Psychiatric Treatment*), after a convicted person has been released on parole, his mandatory addiction treatment may continue outside a medical institution. If he does not continue the treatment, his release on parole shall be revoked.
- (4) The perpetrator of a criminal offence, who does not submit himself to the treatment of addiction during the probation period set in the suspended sentence, may be treated pursuant to the provision of Article 63 of this Code (*Revocation of Suspended Sentence Due to Failure to Fulfil Obligations Imposed*).

Ban on Carrying out Certain Occupation, Activity or Duty

Article 73

- (1) The security measure of ban on carrying out a certain occupation, activity or duty may be

imposed on a perpetrator who has perpetrated *a criminal offence in relation to his occupation, activity or duty*, if there is a risk that such a perpetration could induce the perpetrator to perpetrate *another criminal offence in relation to his occupation, activity or duty*.

(2) The security measure of ban on carrying out a certain occupation, activity or duty may be imposed for a term of not less than one year but not more than ten years, running from the date the decision becomes final, providing that the time spent serving the sentence of imprisonment is not credited towards the term of this security measure.

(3) As in the case referred to in Article 43, paragraph 5, of this Code (*Community Service*), the execution of the sentence of imprisonment may be ordered against the perpetrator of a criminal offence who, while performing community service as a substitute for imprisonment, defies the ban on carrying out a certain occupation, activity or duty.

(4) The perpetrator of a criminal offence who defies the ban on carrying out a certain occupation, activity or duty during the probation period set in his suspended sentence, may be treated pursuant to the provision of Article 63 of this Code (*Revocation of Suspended Sentence Due to Failure to Fulfil Obligations Imposed*).

Confiscation

Article 74

(1) Instrumentalities that were in any way, wholly or partially, used or intended for use in the perpetration of a criminal offence, or those that resulted from the perpetration of a criminal offence, shall be confiscated if those instrumentalities are owned by the perpetrator.

(2) The instrumentalities referred to in paragraph 1 of this Article shall be confiscated even if they are not owned by the perpetrator, which will not affect third parties' rights to damage compensation from the perpetrators.

CHAPTER X

RULES RELATING TO EDUCATIONAL RECOMMENDATIONS, EDUCATIONAL MEASURES AND PUNISHING JUVENILE OFFENDERS

Special Provisions of Criminal Code Applicable to Juvenile Offenders

Article 75

(1) The provisions of this Chapter apply to juveniles who have perpetrated criminal offences, while other criminal provisions, set forth in the other laws, shall apply to juveniles only insofar as they do not exceed the boundaries defined by special provisions for juvenile perpetrators of criminal offences.

(2) Special provisions for juvenile perpetrators of criminal offences shall, under the conditions set forth in the provisions of this Chapter, apply also to adult persons tried for criminal offences they have perpetrated as juveniles and, exceptionally, to persons who have perpetrated a criminal offence as young adults.

Conditions for Applying Educational Recommendations

Article 76

- (1) Educational recommendations may apply to a juvenile for the criminal offences carrying a fine or a sentence of imprisonment for a term not exceeding three years.
- (2) The educational recommendations may be applied to a juvenile by the competent prosecutor or juvenile judge.
- (3) The conditions for the application of educational recommendations are as follows: the juvenile's admission that he has perpetrated the criminal offence, and his expressed willingness to make amends with the injured party.

Purpose of Educational Recommendations

Article 77

The purpose of educational recommendations is as follows:

- a) to avoid initiation of criminal proceedings against juvenile offenders; and
- b) to use the educational recommendations as a means of deterring juveniles from perpetrating criminal offences.

Types of Educational Recommendations

Article 78

- (1) Educational recommendations are as follows:
 - a) personal apology to the injured party;
 - b) compensation of damage to the injured party;
 - c) regular school attendance;
 - d) working for a humanitarian organisation or local community;
 - e) accepting an appropriate job;
 - f) placement in another family, home or institution;
 - g) treatment in an adequate health institution;
 - h) attending instructive, educational, psychological and other forms of counselling;
- (2) Educational recommendations referred to in subparagraphs a) through c) and h) of paragraph 1 of this Article shall be applied by the competent prosecutor, while the recommendations referred to in subparagraphs d) through g) shall be applied by the juvenile judge.

Selection of Educational Recommendations

Article 79

- (1) When deciding which particular educational recommendation to apply, the competent prosecutor or juvenile judge shall take into consideration the overall interests of the juvenile and the injured party. In doing so, he shall pay special attention not to jeopardise the juvenile's regular

schooling or work by applying the educational recommendations.

(2) Educational recommendations may not last longer than one year.

(3) Upon becoming effective, one educational recommendation may be replaced with another, or it may be cancelled in whole.

(4) The selection and application of educational recommendations is carried out in collaboration with the juvenile's parents or guardians and institutions of social care.

Criminal Sanctions for Juveniles

Article 80

(1) Educational measures and certain security measures may be imposed on a juvenile perpetrator of a criminal offence while, in extreme cases, the sentence of juvenile imprisonment may be imposed on an older juvenile.

(2) A juvenile who at the time of perpetration of a criminal offence was aged between fourteen and sixteen (junior juvenile) may be subjected to educational measures only.

(3) A juvenile who at the time of perpetration of a criminal offence was aged between sixteen and eighteen (senior juvenile) may be subjected to educational measures under the conditions laid down by this Code; exceptionally, a sentence of juvenile imprisonment may be imposed.

(4) Security measures may be imposed on juveniles under the conditions laid down under this Code.

(5) A suspended sentence may not be imposed on a juvenile.

Purpose of Educational Measures and Juvenile Imprisonment

Article 81

The purpose of educational measures and of juvenile imprisonment is to ensure the education, rehabilitation and proper development of juveniles who have perpetrated criminal offences by providing them with protection, assistance and supervision, as well as vocational training and development of their personal sense of responsibility. In addition, the purpose of juvenile imprisonment is to exercise special influence on juvenile offenders in order to deter them from perpetrating criminal offences in the future, as well as to deter other juveniles from perpetrating criminal offences.

Types of Educational Measures

Article 82

(1) Educational measures are as follows:

- a) disciplinary measures;
- b) measures of intensified supervision;
- c) institutional measures.

(2) Disciplinary measures shall be imposed on a juvenile perpetrator of a criminal offence who does not need to be submitted to any extended educational or reformatory measures, in particular if he has perpetrated a criminal offence out of recklessness or injudiciousness.

(3) Measures of intensified supervision shall be imposed on a juvenile perpetrator of a criminal offence if it appears necessary to submit the juvenile to extended measures of education, rehabilitation or medical treatment under adequate supervision, but where it is not necessary to completely isolate him from the old environment.

(4) Institutional measures shall be imposed on a juvenile perpetrator of a criminal offence when it appears necessary to submit him to extended measures of education, rehabilitation or medical treatment, as well as to remove him completely from his old environment. Institutional measures may not last more than five years.

Educational Measures

Article 83

The following educational measures may be imposed on a juvenile perpetrator of a criminal offence:

- a) disciplinary measure of committal to a juvenile disciplinary centre;
- b) measures of intensified supervision: by the parents, adoptive parents or guardians, in a foster home, or by a competent social care body;
- c) institutional measures: committal to an educational institution, educational-reformatory home or some other training establishment.

Selection of Educational Measures

Article 84

When deciding on the appropriate educational measure, the court shall take into account the age of the juvenile, the degree of his mental development, psychological traits, his propensities, the motives for which he perpetrated the offence, his prior education and upbringing, environment and living conditions, the gravity of his offence, whether he has a previous record of punishment or whether an educational measure has previously been imposed on him, as well all as all other circumstances relevant to the selection of such a measure.

Committal to Juvenile Disciplinary Centre

Article 85

(1) The court shall impose the educational measure of committal to a juvenile disciplinary centre when it is necessary to exert an influence on the personality and conduct of a juvenile perpetrator of a criminal offence by means of appropriate short-term measures.

(2) A juvenile upon whom a measure set forth in paragraph 1 of this Article has been imposed may be committed by the court to the disciplinary centre:

- a) for a specified number of hours on holidays, but not more than four consecutive days of a holiday;
- b) for a specified number of hours during a day, but not more than one month;
- c) for a continuous stay over a specified number of days, but not more than twenty days.

(3) In ordering a measure set forth in paragraph 1 of this Article, the court shall make sure that the

juvenile does not fall behind in his regular studies or work due to the enforcement of the measure.

(4) The juvenile may be employed in the disciplinary centre with useful labour appropriate to his age, if he or his legal guardian consents to such labour.

(5) In imposing the educational measure of committal to the juvenile disciplinary centre, the court may impose the educational measure of intensified supervision by the competent social care body, which will be executed after the execution of the educational measure of committal to the juvenile disciplinary centre.

Intensified Supervision by Parents, Adoptive Parents or Guardians

Article 86

(1) The educational measure of intensified supervision by parents, adoptive parents or guardians shall be ordered by the court if the parents, adoptive parents or guardians have failed in supervising the juvenile, although they are capable of exercising such supervision.

(2) When imposing the educational measure referred to in paragraph 1 of this Article, the court may give necessary instructions to the parents, adoptive parents or guardians, and order them to carry out particular duties with respect to the measures that need to be undertaken towards the education and development of the juvenile, towards his medical treatment and averting harmful influences upon him.

(3) In imposing the educational measure referred to in paragraph 1 of this Article, the court may order the competent social care body to check its enforcement and render assistance to the parents, adoptive parents or guardians. The court shall subsequently decide on the termination of such control, providing it may not be shorter than one or longer than three years.

Intensified Supervision in a Foster Home

Article 87

(1) If the parents, adoptive parents or guardians of a juvenile are not in a position to supervise him, or if they cannot be reasonably expected to do so, the court shall impose on the juvenile the educational measure of intensified supervision in a foster home, placing him with another family that is willing to accommodate him and that has the ability to exercise intensified supervision over him.

(2) The enforcement of the educational measure referred to in paragraph 1 of this Article shall be discontinued when it becomes possible for the parents, adoptive parents or guardians of the juvenile to exercise intensified supervision over him, or when as a result of the education process the intensified supervision becomes no longer required.

(3) In imposing the educational measure referred to in paragraph 1 of this Article, the court shall order the competent social care body to check its enforcement throughout the duration of the measure, as well as to render necessary assistance to the family with which the juvenile has been accommodated.

Intensified Supervision by the Competent Social Care Body

Article 88

(1) If the parents, adoptive parents or guardians are in no position to intensively supervise the juvenile, and if the conditions for imposing the educational measure of intensified supervision in a

foster home do not exist, the court shall impose on the juvenile the educational measure of intensified supervision by the competent social care body.

(2) The court shall subsequently decide on the date of discontinuation of the educational measure referred to in paragraph 1 of this Article, providing that its duration may not be shorter than one year or longer than three years. During the enforcement of the measure, the juvenile shall stay with his parents, adoptive parents or guardians, while the intensified supervision over him shall be exercised by an authorised person of the competent social care body.

(3) The authorised person of the competent social care body shall take care of the juvenile's studies, his employment, his removal from the environment affecting him in a harmful way, his necessary medical treatment and the improvement of his living conditions.

Special Obligations in conjunction with Measures of Intensified Supervision

Article 89

(1) In imposing an educational measure of intensified supervision referred to in Articles 86 (*Intensified Supervision by Parents, Adoptive Parents or Guardians*), 87 (*Intensified Supervision in a Foster Home*) and 88 (*Intensified Supervision by the Competent Social Care Body*) of this Code, the court may impose on a juvenile one or more special obligations, if necessary for the successful enforcement of the measure, provided that the obligations do not last longer than the educational measure itself.

(2) The court may impose on the juvenile the following obligations in particular: personal apology to the injured party, paying for the damage within his own means, going to school regularly, undergoing training for a job suitable for his abilities and propensities, restraining from using liquor and intoxicating drugs, visiting an appropriate health institution or counselling office, and restraining from associating with persons who have bad influence on him.

(3) The court may subsequently cancel or modify the obligations it has ordered.

(4) In the event that the obligations referred to in paragraph 2 of this Article have not been fulfilled, the court may substitute the imposed measure of intensified supervision with some other educational measure.

(5) In imposing the obligations referred to in paragraph 2 of this Article, the court shall caution the juvenile about the consequences referred to in paragraph 4 of this Article.

Committal to Educational Institution

Article 90

(1) The court shall impose the educational measure of committal to an educational institution on a juvenile who has to be submitted to lasting supervision by trained educators in the juvenile education institution.

(2) The juvenile shall remain in the educational institution for a term not shorter than six months and not longer than three years. When imposing the measure, the court shall not determine its duration, but shall subsequently decide thereupon (Article 93, paragraph 2, of this Code, *Discontinuation and Modification of Decision on Educational Measures*).

Committal to an Educational-Reformatory Home

Article 91

- (1) The court shall impose the educational measure of committal to an educational-reformatory home for juvenile perpetrators on a juvenile to whom intensified reformatory measures need to be applied.
- (2) In deciding whether to impose the educational measure referred to in paragraph 1 of this Article, the court shall take into particular consideration the gravity and the nature of the offence perpetrated, as well as whether educational measures or juvenile imprisonment have previously been imposed on the juvenile.
- (3) The juvenile shall remain in the educational-reformatory home for a term not shorter than one year and not longer than five years. When imposing the educational measure referred to in paragraph 1, the court shall not determine its duration, but shall subsequently decide thereupon (Article 93, paragraph 2, of this Code, *Discontinuation and Modification of Decision on Educational Measures*).

Committal to Another Training Institution

Article 92

- (1) The court may impose the educational measure of committal to another training institution on a juvenile whose mental or physical development has been impeded, in lieu of the educational measure of committal to an educational institution or the educational measure of committal to an educational-reformatory home.
- (2) The juvenile shall remain in the training institution as long as necessary for his medical treatment or rehabilitation, but when the juvenile comes of age the need for his further stay in the institution shall be reassessed.

Discontinuation and Modification of Decisions on Educational Measures

Article 93

- (1) If after the decision imposing an educational measure of intensified supervision or an institutional educational measure, circumstances appear which had not existed or had been unknown at the time of the decision, but might have affected the making of the decision, the enforcement of the measure imposed may be discontinued, or the measure imposed may be substituted with another educational measure of intensified supervision or an institutional educational measure.
- (2) In addition to the cases referred to in paragraph 1 of this Article, unless otherwise provided with respect to certain measures, the enforcement of educational measures of intensified supervision or institutional educational measures may be discontinued due to the success achieved in the educational process, or the measures may be substituted with other such measures better suited to achieve the purpose of educational measures.
- (3) The discontinuation or substitution of an institutional educational measure with another type of institutional educational measure shall be subject to the following restrictions:
 - a) enforcement of the educational measure of committal to an educational institution may not be discontinued before the expiration of a term of six months, and until such time can only be

substituted with the educational measure of committal to an educational-reformatory home or the educational measure of committal to some other training institution;

- b) enforcement of the educational measure of committal to an educational-reformatory home may not be discontinued before the expiration of a term of one year, and before such time may only be substituted with the educational measure of committal to some other training institution.

(4) Exceptionally, the enforcement of the educational measure of committal to an educational institution or the educational measure of committal to an educational-reformatory home may be discontinued or be substituted with some other measure even before the expiration of the time-limits referred to in Subparagraphs a) and b) of paragraph 3 of this Article if special circumstances relating to the personality of the juvenile manifestly show that the purpose of the measures has been achieved.

Reconsideration of Educational Measures

Article 94

(1) The court shall reconsider the need of enforcing the educational measure imposed if more than one year has elapsed from the finality of the decision imposing an educational measure of intensified supervision or an institutional educational measure, and if by such time the enforcement of the measure has not commenced. In so doing, the court may decide that the previously imposed measure be enforced, not enforced or substituted with another measure.

(2) The educational measure of committal to a juvenile disciplinary centre shall not be executed if more than six months have elapsed since the day when the decision imposing the measure became final, and if the enforcement of the measure has not yet commenced.

Punishment of Senior Juveniles

Article 95

Punishment may only be imposed on a senior juvenile who has perpetrated a criminal offence carrying a sentence of imprisonment for a term exceeding five years, if it would not be justifiable to impose an educational measure due to the grave consequences of the offence perpetrated and the degree of guilt.

Juvenile Imprisonment

Article 96

(1) The duration of the sentence of juvenile imprisonment may not be shorter than one or longer than ten years, and shall be measured in full years or half-years.

(2) In meting out punishment for a senior juvenile for a criminal offence, the court may not impose the sentence of juvenile imprisonment for a term exceeding that of the imprisonment prescribed for that particular criminal offence, but the court shall not be bound by the minimum punishment prescribed for the particular criminal offence.

Meting Out Juvenile Imprisonment

Article 97

In meting out juvenile imprisonment for a senior juvenile, the court shall take into consideration all circumstances bearing on the magnitude of punishment (Article 48, *General Principles of Meting*

Out Punishments), paying special attention to the level of mental development of the juvenile and the time needed for his reformation and occupational training.

Imposing Educational Measures and Juvenile Imprisonment for Concurrent Criminal Offences

Article 98

(1) The court shall impose only one educational measure on a juvenile for concurrent criminal offences, or only a sentence of juvenile imprisonment when legal conditions exist for such a sentence to be imposed and when the court finds that it should be imposed.

(2) The court shall proceed in the same manner as set forth in paragraph 1 of this Article in case it finds that the juvenile had perpetrated a criminal offence before or after an educational measure or juvenile imprisonment has been imposed.

Statute of Limitations on Execution of Sentence of Juvenile Imprisonment

Article 99

The sentence of juvenile imprisonment shall not be executed if the following time periods have elapsed from the finality of the judgement by which the sentence of juvenile imprisonment was imposed:

- a) ten years if the sentence of juvenile imprisonment for a term exceeding five years has been imposed;
- b) five years if the sentence of juvenile imprisonment for a term exceeding three years has been imposed;
- c) three years if the sentence of juvenile imprisonment for a term not exceeding three years has been imposed.

Imposing Criminal Sanctions on Adults for Offences They Perpetrated as Juveniles

Article 100

(1) An adult who has reached the age of twenty-one may not be tried for a criminal offence he perpetrated as a junior juvenile.

(2) An adult who has not reached the age of twenty-one at the time of the trial may be tried only for criminal offences carrying the sentence of imprisonment for a term exceeding five years. The court may impose on such a person only the appropriate institutional educational measure, taking into account, when considering whether to impose such a measure or not, all the relevant circumstances of the case, in particular the gravity of the criminal offence perpetrated, the time that has elapsed since the perpetration, the conduct of the perpetrator and the purpose of the educational measure.

(3) An appropriate institutional educational measure may be imposed on an adult for a criminal offence he perpetrated as a senior juvenile, while the sentence of juvenile imprisonment may also be imposed under conditions referred to in Article 96 of this Code (*Juvenile Imprisonment*). In deciding whether and which of the sanctions to impose, the court shall take into account all the relevant circumstances of the case, in particular the gravity of the criminal offence perpetrated, the time that has elapsed since its perpetration, the conduct of the perpetrator, as well as the purpose of the sanctions.

(4) Notwithstanding the provision set forth in paragraph 3 of this Article, the court may, in lieu of juvenile imprisonment, impose the sentence of imprisonment or a suspended sentence on an adult who has reached the age of twenty-one at the time of the trial. Regarding rehabilitation and the expunction of the conviction and its legal consequences, the sentence of imprisonment in this case shall have the same legal effect as the sentence of juvenile imprisonment.

Imposing Educational Measures on Young Adults

Article 101

(1) The court may impose an appropriate institutional educational measure on a perpetrator who has perpetrated a criminal offence as an adult, but who has not reached the age of twenty-one at the time of trial, if, given his personality and the circumstances in which he perpetrated the criminal offence, it may reasonably be expected that the purpose of punishment would also be achieved by the educational measure.

(2) Under the conditions defined in this Code, the court may impose on a young adult on whom it had imposed an educational measure any security measure prescribed in this Code, other than the security measure of ban on carrying out a certain occupation, activity or duty.

(3) The educational measure imposed may last only until the perpetrator reaches the age of twenty-three.

Imposing Security Measures on Juveniles

Article 102

(1) The security measures referred to in Article 69 (*Types of Security Measures*), subparagraphs a), b) and d) of this Code may, under the conditions determined by law, be imposed on a juvenile perpetrator on whom an educational measure or a sentence of juvenile imprisonment has been imposed.

(2) No security measure of mandatory treatment of addiction may be imposed alongside disciplinary measures.

(3) In lieu of the security measure of mandatory psychiatric treatment, the educational measure of committal to another training establishment may be imposed if the treatment and the supervision may be provided in that institution and thus the purpose of the security measure achieved. In addition, the security measure of confiscation may also be imposed.

Impact of Punishment on Educational Measures

Article 103

(1) If the court imposes the sentence of juvenile imprisonment on a senior juvenile during the course of an educational measure, such educational measure shall terminate once the juvenile has commenced serving his sentence.

(2) If the court imposes on an adult the sentence of juvenile imprisonment or imprisonment for a term of at least one year during the course of an educational measure, such educational measure shall terminate once the adult has commenced serving his sentence.

(3) If the court imposes on an adult the sentence of imprisonment for a term shorter than one year during the course of an educational measure, the court shall decide in the judgement whether upon the completion of the imprisonment term the educational measure would be continued or cancelled.

Effect of Educational Measures and Sentence of Juvenile Imprisonment

Article 104

- (1) Educational measures and juvenile imprisonment do not entail the legal consequences of conviction consisting of the ban on acquiring certain rights under Article 114, paragraph 2, of this Code (*Types of Legal Consequences of Conviction*).
- (2) The provisions set forth in Article 108 of this Code (*Convicted Persons Labour*) shall also apply to the persons serving the educational measure of committal to an educational-reformatory home or the sentence of juvenile imprisonment.

Records of Educational Measures Imposed

Article 105

- (1) Records of educational measures imposed shall be kept with the competent social care bodies pursuant to the regulations adopted by the body in charge of social care in the Federation of Bosnia and Herzegovina, Republika Srpska or the Brčko District of Bosnia and Herzegovina.
- (2) Data on the educational measures imposed may be disclosed only to the court, public prosecutor's office, internal affairs authorities and social care bodies in relation to the criminal proceedings conducted against the persons on whom the educational measures were imposed.

C H A P T E R X I

GENERAL PROVISIONS ON EXECUTION OF CRIMINAL SANCTIONS

Execution of Sentence of Imprisonment or Long-Term Imprisonment

Article 106

- (1) The sentence of imprisonment or juvenile imprisonment shall be carried out in closed, semi-open or open institutions for the execution of sentences.
- (2) The sentence of long-term imprisonment shall be carried out in the closed-type institution for the execution of sentences.

Limits to the Execution of Sentences

Article 107

A person upon whom a sentence is to be executed shall be deprived of his rights or have his rights restricted pursuant to the law only insofar as it may be necessary to achieve the purpose of the particular sentence.

Convicted Persons Labour

Article 108

- (1) A person sentenced to imprisonment, long-term imprisonment or juvenile imprisonment, if able to work, may perform labour by own consent.
- (2) If convicted persons request or consent to work, they shall be allowed to do so.
- (3) The work of convicted persons should be useful and should correspond as much as possible to the contemporary way of performing the same kind of work at liberty, and to the professional and

other abilities of the convicted person.

Execution of Sentence of Juvenile Imprisonment

Article 109

(1) The sentence of juvenile imprisonment is served by senior juveniles in special institutions for juvenile offenders until they reach the age of eighteen. Those who have reached the age of eighteen but who have not reached the age of twenty-three (young adults) shall serve the sentence of juvenile imprisonment in special institutions for young adults or in a special department of the institution where adults are serving their sentences, wherein measures are to be taken in order to prevent contact between juveniles and older convicted persons. If a person has not served out the sentence before turning twenty-three, the remainder of the sentence shall be served in a penal-correctional institution for adults.

(2) A young adult may serve the sentence in a penal-correctional institution for juvenile offenders as long as necessary for the completion of his schooling or training. A young adult may not, under any circumstances, serve his sentence in a penal-correctional institution for juvenile offenders if that would, in any way, be detrimental to the juveniles serving their sentence of juvenile imprisonment there.

(3) The choice of occupation for convicted juveniles shall be made in accordance with their abilities and inclinations towards a particular occupation, for the purpose of occupational training and in accordance with the options available at the penal-correctional institution for juvenile offenders. Young adults shall also be provided education and training regardless of whether they are serving their sentence in special institutions or in special departments of penal-correctional institutions for adults.

(4) Working hours of convicted juveniles shall be set so as to enable their schooling and training, and to leave sufficient time for physical exercise and entertainment.

(5) A convicted juvenile may be released on parole if he has served out one third of his sentence, but not before he has served one year in the penal-correctional institution. During the parole, the court may order the measure of intensified supervision by a competent social care body. Parole revocation is governed by Article 45 of this Code (*Revocation of Parole*).

(6) The convicted juvenile, except in special circumstances, shall be entitled to maintain contact with his family through letters and visits.

C H A P T E R X I I

CONFISCATION OF PROCEEDS OF CRIME AND LEGAL CONSEQUENCES OF CONVICTION

Grounds for Confiscation of Proceeds of Crime

Article 110

(1) Nobody is allowed to retain property gain, *income, profit or other benefits resulting from the proceeds of crime.*

(2) The property gain, income, profit or other benefits resulting from the proceeds of crime referred to in paragraph 1 of this Article shall be confiscated by court's decision, finding that the criminal offence has been perpetrated, under the terms set forth in this Code.

Extended Confiscation of Proceeds of Crime

Article 110a

(1) Where criminal proceedings involve the criminal offences set forth under Chapters XVII, XVIII, XIX, XXI, XXI A and XXII of the Code, the Court may issue a decision under Article 110, paragraph 2, and confiscate the property gain, income, profit or other benefits resulting from the proceeds of crime for which the prosecutor provided sufficient evidence to reasonably believe that such property gain was acquired by the perpetration of these criminal offences, while the perpetrator failed to prove that the gain was acquired in a lawful manner.

(2) In the event that during the course of the criminal proceedings no requirements set by law have been met for confiscation of the property gain, income, profit or other benefits resulting from the proceeds of crime, the proceeds of crime confiscation request may be filed during civil proceedings.

Manner of Confiscating Proceeds of Crime

Article 111

(1) All the money, valuable instrumentalities and all other proceeds of crime shall be confiscated from the perpetrator, and in case the confiscation is not feasible - the perpetrator shall pay an amount of money corresponding to the acquired property gain. The proceeds of crime shall be confiscated from persons to whom they have been transferred without compensation or with a compensation that does not correspond to the real value, if the persons knew or had reason to know that the property gain had been acquired by the perpetration of a criminal offence.

(2) If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall be liable to confiscation not exceeding the estimated value of the intermingled proceeds of crime.

(3) Income or other benefits derived from the proceeds of crime, or from property into which the proceeds of crime have been converted, or from property with which the proceeds of crime have been intermingled, shall also be liable to the measures referred to in this Article, in the same manner and to the same extent as the proceeds of crime.

Protection of Injured Party

Article 112

(1) If criminal proceedings have resulted in awarding property claims to the injured party, the court shall order the confiscation of property gain if it exceeds the property claim awarded to the injured party.

(2) The injured party who was in the course of criminal proceedings advised that he may pursue his property claim in a civil action, may request that he be reimbursed from within the amount of the confiscated value, provided that the civil case is initiated within six months of the day when the decision by which he has been advised to take civil action became final, and if he, within three months of the day when his claim was legally established, requests to be compensated from within the confiscated value.

(3) The injured party who during the criminal proceedings did not file a property claim may request

compensation from within the confiscated value, if he has initiated civil action within three months of the day when he learned about the judgement confiscating the proceeds of crime, but not later than two years from the day when the decision on the confiscation of proceeds of crime became final, and if within three months of the day when the decision establishing his claim became final he requests compensation from within the confiscated value.

Legal Consequences of Conviction

Article 113

- (1) Convictions for particular criminal offences may entail as legal consequences the termination or loss of certain rights, or ban on the acquisition of certain rights.
- (2) Legal consequences of a conviction may not take place when the perpetrator of the criminal offence has received a fine or a suspended sentence, or when the court has relieved him from punishment.
- (3) Legal consequences of a conviction may be prescribed only by law and shall take effect by the force of the law in which they were prescribed.

Types of Legal Consequences of Conviction

Article 114

- (1) Legal consequences of a conviction relating to the termination or loss of certain rights are as follows:
 - a) cessation of the performance of particular jobs or functions in government agencies, business enterprises or other legal entities;
 - b) termination of employment or cessation of the performance of a particular profession, occupation or activity;
 - c) *revocation of permits or authorisations issued under decisions by government agencies, or a status acknowledged under decisions rendered by government agencies;*
 - d) revocation of decorations.
- (2) Legal consequences of a conviction, consisting of a ban on the acquisition of particular rights are as follows:
 - a) ban on the performance of certain jobs or functions in government agencies, business enterprises or other legal entities;
 - b) ban on the acquisition of a particular office, title, position or promotion in service;
 - c) *ban on the acquisition of permits or authorisations issued under decisions of government agencies, or a status acknowledged under decisions rendered by government agencies.*

Beginning and Duration of Legal Consequences of Conviction

Article 115

- (1) The legal consequences of a conviction take effect on the day when the judgement becomes final.
- (2) The legal consequences of a conviction, consisting of a ban on the acquisition of particular rights, may not exceed ten years from the day on which the punishment has been served out,

pardoned or amnestied, or has been barred by the statute of limitations, except for certain legal consequences for which law provides a shorter period of duration.

(3) The legal consequences of a conviction cease by the expunction of the conviction.

Termination of Security Measures and Legal Consequences of Conviction on the Basis of Court Decision

Article 116

(1) The court may decide to discontinue the application of the security measure of a ban on carrying out a certain occupation, activity or duty, if three years have elapsed from the day on which the security measure was imposed.

(2) The court may decide to terminate the legal consequence of a conviction consisting of the ban on the acquisition of a certain right after the lapse of three years from the day on which the sentence has been served out, pardoned or amnestied, or barred by the statute of limitations.

(3) In deciding whether to order the termination of a security measure or a legal consequence of a conviction, the court shall take into account the conduct of the convicted person after the conviction, his readiness to compensate for damage caused by the perpetration of the criminal offence and return the proceeds of crime, as well as other circumstances indicating the justifiability of the termination of the security measure or the legal consequence of the conviction.

(4) The termination of legal consequences of a conviction shall in no way interfere with the rights of third parties originating from the judgement.

C H A P T E R XIII

REHABILITATION, AMNESTY, PARDON AND EXPUNCTION OF CONVICTION

Rehabilitation

Article 117

(1) Following release from the institution where they had served out the sentence of imprisonment, long-term imprisonment or juvenile imprisonment, or after being pardoned or amnestied, or after the punishment was barred by the statute of limitations, convicted persons shall freely enjoy all rights provided by the constitution, law and other regulations, and may acquire all rights other than those whose exercise is limited as a result of a security measure imposed on them or a legal consequence of the conviction.

(2) The provision set forth in paragraph 1 of this Article shall also apply to persons on parole, unless their rights are limited by special provisions on release on parole.

Amnesty

Article 118

(1) Amnestied persons shall be granted relief from criminal prosecution, complete or partial relief of the execution of punishment, substitution of the imposed punishment by a less severe one, expunction of the conviction, or cancellation of legal consequences of the conviction.

(2) Amnesty for the criminal offences prescribed under this Code may be granted by the Parliamentary Assembly of Bosnia and Herzegovina by virtue of law.

Pardon

Article 119

(1) By means of pardon, specifically designated persons shall be granted complete or partial relief of the execution of punishment, substitution of the imposed punishment by a less severe one, expunction of the conviction, or cancellation or reduction of the security measure of a ban on carrying out certain occupation, activity or duty, or a certain legal consequence of the conviction.

(2) Pardon for the criminal offences set forth in the criminal legislation of Bosnia and Herzegovina, may be granted by the decision of the Presidency of Bosnia and Herzegovina pursuant to a special law.

Effect of Amnesty and Pardon on Third Parties

Article 120

Granting amnesty or pardon shall in no way affect the rights of third parties stemming from the conviction.

Expunction of Conviction

Article 121

(1) On condition that the perpetrator of a criminal offence has not been convicted again of a new criminal offence, the conviction shall be expunged by the force of law upon the expiry of the following time periods:

- a) **a sentence by which a perpetrator of a criminal offence has been relieved of punishment shall be expunged from the criminal record provided that he does not perpetrate a new criminal offence within one year of the date when the judgement becomes final.**
- b) **a suspended sentence shall be expunged from the criminal record one year after the expiration of the probation period, unless the convicted person has perpetrated a new criminal offence within that period.**
- c) **a fine or a sentence of up to one year of imprisonment shall be expunged from the criminal record three years after the day on which the punishment was served out, pardoned or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.**
- d) **the sentence of imprisonment of between one and three years shall be expunged from the criminal record five years after the day on which the punishment was served out, pardoned or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.**
- e) **the sentence of imprisonment of between three and five years shall be expunged from the criminal record ten years after the day on which the punishment was served out, pardoned or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.**
- f) **the sentence of imprisonment of between five and ten years shall be expunged from the criminal record fifteen years after the day on which the punishment was served out, pardoned or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.**

- (2) Upon petition by a convicted person, the court may decide to expunge from the criminal record a sentence of imprisonment for a term exceeding 10 years, if a period of 20 years has expired from the day on which the punishment was served out, pardoned or barred by the statute of limitations, provided that the convicted person has not perpetrated a new criminal offence within that period.
- (3) In deciding on whether to expunge a conviction, the court shall take into account the conduct of the convicted person after serving out his sentence, the nature of the criminal offence, and other circumstances that might be relevant to evaluating whether the expunction is warranted.
- (4) The sentence of a long-term imprisonment shall not be expunged from the criminal record.
- (5) Conviction shall not be expunged from the criminal record for as long as another criminal proceeding is ongoing for a new criminal offence.
- (6) Conviction shall not be expunged from the criminal record for as long as security measures are in place, or until the proceeds of crime acquired by the perpetration of the criminal offence have been entirely confiscated.
- (7) Should the conviction be expunged in accordance with the provisions set forth in paragraphs 1 through 3 of this Article, the perpetrator of the criminal offence shall be considered as having no previous convictions.

Criminal Records

Article 121a

- (1) Criminal records and the information therein are not public.
- (2) Any citizen is entitled to request and receive information contained in the criminal records about himself if necessary to exercise his right or interest.
- (3) Substitution of an imposed fine by community service or imprisonment, as well as the substitution of a prison sentence by community service or a fine, shall be entered in the criminal records.

CHAPTER XIV

LIABILITY OF LEGAL ENTITIES FOR CRIMINAL OFFENCES

Liability of Legal Entities

Article 122

- (1) This Chapter regulates criminal liability of a legal entity, with the exclusion of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, the Brčko District of Bosnia and Herzegovina, canton, city, municipality and local community for a criminal offence perpetrated by the perpetrator in the name of, for the account of or in favour of the legal entity.
- (2) This Chapter regulates punishments and other criminal sanctions that may be imposed on a legal entity, as well as legal consequences of the conviction for a criminal offence imposed on the legal entity.
- (3) The application of some punishments or other criminal sanctions that may be imposed on legal entities may be excluded or limited for certain legal entities under the conditions stipulated by law.

(4) Criminal proceedings against legal entities shall be conducted according to the Criminal Procedure Code of Bosnia and Herzegovina.

Territorial Applicability of this Code regarding Criminal Liability of Legal Entities

Article 123

(1) Domestic and foreign legal entities shall, pursuant to this Code, be liable for criminal offences perpetrated in the territory of Bosnia and Herzegovina.

(2) Domestic and foreign legal entities shall, pursuant to this Code, also be liable for criminal offences perpetrated outside the territory of Bosnia and Herzegovina if the legal entity has its seat in the territory of Bosnia and Herzegovina or if it carries out its activities in the territory of Bosnia and Herzegovina, if the offence was perpetrated against the State of Bosnia and Herzegovina, its citizens or domestic legal entities.

(3) Pursuant to this Code, a domestic legal entity shall also be liable for criminal offences perpetrated outside the territory of Bosnia and Herzegovina against a foreign state, foreign citizens or foreign legal entities, subject to the conditions set forth in Article 9 of this Code (*Applicability of Criminal Legislation of Bosnia and Herzegovina to Offences Perpetrated Outside the Territory of Bosnia and Herzegovina*).

Grounds of Liability of Legal Entities

Article 124

For a criminal offence perpetrated in the name of, for the account of or for the benefit of a legal entity, the legal entity shall be liable if:

- a) the purpose of the criminal offence arises from a conclusion, order or permission of its managerial or supervisory bodies; or
- b) its managerial or supervisory bodies have influenced the perpetrator or enabled him to perpetrate the criminal offence; or
- c) the legal entity disposes of the proceeds of crime or uses instrumentalities produced by the criminal offence; or
- d) its managerial or supervisory bodies failed to carry out due supervision over the legality of work of the employees.

Limits of Liability of Legal Entities

Article 125

(1) In addition to the conditions referred to in Article 124 of this Code (*Grounds of Liability of Legal Entities*), a legal entity shall also be liable for a criminal offence even when the perpetrator is not guilty of the perpetrated criminal offence.

(2) Liability of the legal entity shall not exclude culpability of physical or responsible persons for the perpetrated criminal offence.

(3) For criminal offences perpetrated by negligence, the legal entity may be liable under the conditions referred to in Article 124, subparagraph d), of this Code, in which case the legal entity may be punished less severely.

(4) If there is no other person or body in the legal entity that could direct or supervise the

perpetrator, except for the perpetrator himself, the legal entity shall be liable for the criminal offence within the limits of the perpetrator's liability.

Liability Incident to the Change of Status of Legal Entities

Article 126

- (1) A legal entity in bankruptcy may be liable for a criminal offence regardless of whether the criminal offence was perpetrated before the onset of bankruptcy proceedings or in the meantime, but no punishment may be imposed on a legal entity under bankruptcy, but only the security measure of forfeiture or confiscation of instrumentalities or proceeds of crime.
- (2) In the event that the legal entity had ceased to exist before the criminal proceedings have been completed with a final judgement finding the legal entity liable, punishments and other sanctions shall be imposed on the legal entity which is its legal successor, if its managerial or supervisory bodies had knowledge of the perpetrated criminal offence before the cessation of existence of the legal entity.
- (3) The security measure of forfeiture or confiscation of instrumentalities or proceeds of crime shall be imposed on the legal entity which is the legal successor of the legal entity that was found liable, if its managerial or supervisory bodies had knowledge of the perpetrated criminal offence.
- (4) In the event the legal entity has ceased to exist after the criminal proceedings were completed by a final judgement, the criminal sanction shall be executed pursuant to the provisions set forth in paragraphs 2 and 3 of this Article.

Liability of Legal Entities for an Attempt

Article 127

- (1) If the perpetrator commences the execution of a planned criminal offence, but does not complete such offence, under the terms of Article 124 of this Code (*Grounds of Liability of Legal Entities*), the legal entity shall be liable if the law prescribes that the attempt is punishable.
- (2) The legal entity shall be punished for the attempt equally as for the completed criminal offence, but may nevertheless be punished less severely.
- (3) If the managerial or supervisory bodies of the legal entity have prevented the perpetrator from completing the commenced criminal offence, the legal entity may be relieved of punishment.

Continued Offence and Liability of Legal Entities

Article 128

Where the same grounds for liability of the legal entity exist in regard to several same-type and time-related criminal offences perpetrated by multiple perpetrators, such legal entity shall be liable as if a single criminal offence has been perpetrated.

Complicity of Legal Entities

Article 129

- (1) In the event that two or more legal entities are found to have partaken in the perpetration of a criminal offence, each shall be subject to liability pursuant to Article 124 of this Code (*Grounds of Liability of Legal Entities*).
- (2) Where there is complicity of legal entities referred to in paragraph 1 of this Article, each legal

entity shall be held accountable as if it were the only legal entity liable for the criminal offence.

General Reasons for Reduction or Relief of Punishment of Legal Entities

Article 130

- (1) A legal entity whose managerial or supervisory body has willingly reported the perpetrator after a criminal offence was perpetrated, may be punished less severely.
- (2) A legal entity whose managerial or supervisory body, following the perpetration of a criminal offence, decides to return the proceeds of crime or remove the harmful effects caused or communicate the information concerning the grounds for holding other legal entities accountable, may be relieved of punishment.

Punishment for Legal Entities

Article 131

The following types of punishment may be imposed upon the legal entities:

- a) fines;
- b) confiscation of property;
- c) dissolution of legal entities.

Fines for Legal Entities

Article 132

- (1) Fines imposable on a legal entity shall not be less than 5,000 KM and shall not exceed 5,000,000 KM.
- (2) In the event that, by perpetrating a criminal offence, the legal entity has caused material damage to another party or the legal entity has come into possession of proceeds of crime, the maximum fine imposed may be double the amount of the damage or proceeds of crime.
- (3) **Failure to pay a fine within the deadline set under the final judgement shall result in an immediate forced collection procedure.**

Confiscation of Property

Article 133

- (1) Confiscation of property may be imposed for criminal offences carrying a sentence of imprisonment for a term of five years or a more severe punishment.
- (2) At least half of the property or the major part of the property or the entire property may be confiscated from a legal entity.
- (3) In the event of bankruptcy proceedings resulting from the imposed property confiscation, the creditors shall be permitted to settle their claims from within the confiscated bankruptcy estate.

Dissolution of Legal Entities

Article 134

- (1) Dissolution of a legal entity may be ordered if its activities were used in whole or to a large extent for the purpose of perpetrating criminal offences.

- (2) In addition to the dissolution of a legal entity, the property confiscation punishment may be imposed as well.
- (3) In addition to the dissolution of a legal entity, the court shall propose the initiation of a liquidation procedure.
- (4) Creditors may be paid out from the property of the legal entity upon which the punishment of dissolution has been imposed.

Meting out Punishment for Legal Entities

Article 135

- (1) In the process of meting out punishment for a legal entity, in addition to the general rules of meting out punishments referred to in Article 48 of this Code (*General Principles of Meting out Punishments*), the economic power of the legal entity shall also be taken into account.
- (2) In the process of meting out a fine for criminal offences which, in addition to a fine also carry a sentence of property confiscation, the punishment may not exceed one half of the amount of the legal entity's property.

Imposing Suspended Sentence on Legal Entities

Article 136

- (1) The court may impose a suspended sentence on the legal entity instead of a fine.
- (2) Within the suspended sentence, the court may impose on the legal entity a fine not exceeding 1,500,000 KM, and at the same time decide that the sentence shall not be executed unless the legal entity becomes liable for a new criminal offence within the period of time set by the court, which may not be shorter than one year or longer than five years.

Security Measures for Legal Entities

Article 137

In addition to the security measure of confiscation referred to in Article 74 of this Code (*Confiscation*), the following security measures may be imposed for criminal offences perpetrated by legal entities:

- a) publication of judgement;
- b) ban on performing a certain activity.

Publication of Judgement

Article 138

- (1) The security measure of judgement publication shall be ordered in case it would be useful for the public to learn about the judgement, especially if the announcement would be useful in order to remove a threat to life or health of people or to provide for traffic safety *or to protect or promote social values*.
- (2) Concerning the significance of a criminal offence and the need for the public to learn about the judgement, the court shall assess whether the judgement should be published in the printed media, by way of radio or television or in several of the aforesaid media and whether its reasoning should be published in whole or as an abstract. The court shall make sure that the applied method of

publication allows that everyone concerned by the need for publication of the judgement should be informed.

Ban on Performing Certain Activities

Article 139

- (1) **By ordering the security measure of a ban on performing certain activities**, the court may prohibit a legal entity from manufacturing certain products or performing certain operations, or certain activities of trade in commodities or **other business operations or activities**.
- (2) The security measure referred to in paragraph 1 of this Article shall be imposed on a legal entity if its further **performing of the specific activity** would pose a threat to life and limb of people or be **detrimental to the economic and financial operation of other persons** or to the economy, or if the legal entity has already been punished for the same or a similar criminal offence over the past two years preceding the perpetration of the criminal offence.
- (3) The security measure referred to in paragraph 1 of this Article may be imposed for a period of between six months and five years, running from the day when the conviction became final.

Confiscation of Proceeds of Crime from Legal Entities

Article 140

If a legal entity has acquired proceeds of crime, the proceeds of crime shall be confiscated from the legal entity.

Legal Consequences of Conviction for Legal Entities

Article 141

- (1) Legal consequences of criminal conviction for a legal entity are as follows:
 - a) ban on work based on a permit, authorisation or concession issued by the authorities of foreign countries;
 - b) ban on work based on a permit, authorisation or concession issued by the institutions of Bosnia and Herzegovina.
- (2) Legal consequences of a criminal conviction for a legal entity may take effect even when the legal entity has been fined for the perpetration of the criminal offence.

Statute of Limitations Regarding the Institution of Criminal Prosecution and Execution of Criminal Sanctions Imposed on Legal Entities

Article 142

- (1) Article 14 of this Code (*Criminal Prosecution Statute of Limitations*) shall apply to the limitation periods concerning the prosecution of legal entities.
- (2) The execution of a sentence imposed on the legal entity shall become barred by the statute of limitations after the lapse of the following periods from the date of the finality of the judgement imposing such punishment:
 - a) three years for execution of a fine;
 - b) five years for execution of the property confiscation punishment and of the punishment of dissolution of legal entity.

(3) The execution of a security measure shall become barred by the statute of limitations after the lapse of:

- a) six months from the finality of the judgement imposing the security measure of judgement publication;
- b) the period that equals the time for which the measure of ban on performing certain activity of the legal entity was imposed.

Laws Prescribing Criminal Offences of Legal Entities

Article 143

Legal entities may be held accountable for criminal offences defined in this Code and other criminal offences defined by law of Bosnia and Herzegovina.

Punishments for Criminal Offences

Article 144

(1) For criminal offences carrying a fine or the sentence of imprisonment for a term not exceeding three years, a legal entity shall be punished by a fine not exceeding 850,000 KM or not exceeding ten times the amount of the proceeds of crime or the damage caused by the perpetration of the criminal offence.

(2) For criminal offences carrying the sentence of imprisonment for a term of not less than three years, a legal entity shall be punished by a fine not exceeding 2,500,000 KM or not exceeding twenty times the amount of the proceeds of crime or the damage caused by the perpetration of the criminal offence.

(3) For criminal offences carrying the sentence of imprisonment for a term of five years or a more severe penalty, a legal entity may be punished by property confiscation instead of a fine.

(4) For criminal offences referred to in paragraph 1 of this Article, a legal entity may receive the punishment of dissolution of the legal entity instead of a fine, under the requirements referred to in Article 134 of this Code (*Dissolution of Legal Entities*).

SPECIAL PART

CHAPTER XV

CRIMINAL OFFENCES AGAINST FREEDOM AND RIGHTS OF INDIVIDUALS AND CITIZENS

Infringement on the Equality of Individuals and Citizens

Article 145

(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who on the grounds of differences in race, skin colour, national or ethnic background, religion, political or other belief, sex, sexual orientation, language, education or social status or social origins, denies or restricts the civil rights as provided by the Constitution of Bosnia and Herzegovina, ratified by international agreement, law of Bosnia and Herzegovina, some other regulation of Bosnia and Herzegovina or a general act of Bosnia and Herzegovina, or whoever on the grounds of these differences or background or some other status grants undue privileges or benefits to individuals, shall be punished by imprisonment for a term between six months and five years.

(2) An official or responsible person in the institutions of Bosnia and Herzegovina, who in contravention of the regulations of Bosnia and Herzegovina on the equal use of languages and alphabets of the constituent peoples and others living in the territory of Bosnia and Herzegovina, restricts or denies to a citizen the use of his language or alphabet while addressing bodies or institutions of Bosnia and Herzegovina, business enterprises or other legal entities in order to exercise his rights,

shall be fined or punished by imprisonment for a term not exceeding one year.

(3) An official or responsible person in the institutions of Bosnia and Herzegovina, who restricts or denies the right of citizens to be freely employed throughout the territory of Bosnia and Herzegovina and under the same prescribed terms,

shall be punished by imprisonment for a term of between six months and five years.

Provoking Ethnic, Racial and Religious Hatred, Discord and Intolerance

Article 145a

(1) Whoever publicly provokes or inflames national, racial or religious hatred, discord or intolerance among the constituent peoples and others, as well as among other people living or residing in Bosnia and Herzegovina, shall be punished by imprisonment for a term of between three months and three years.

(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article by abusing his office or official authority, shall be punished by imprisonment for a term of between one and ten years.

Damaging or Destroying Religious Facilities

Article 145b

Whoever damages, renders unusable or destroys a religious facility shall be punished by imprisonment for a term of between six months and five years.

Preventing the Return of Refugees and Displaced Persons

Article 146

(1) Whoever by use of force, serious threat or in some other illegal manner, on a large scale or with a major impact, prevents refugees or displaced persons from returning to their homes of origin, or from using their property of which they were deprived in the course of hostilities since 1991, shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever participates in a group of people that perpetrates the criminal offence referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of not less than three years.

(3) Whoever organises or directs at any level the group of people that perpetrates the criminal offence referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of not less than five years.

Unlawful Deprivation of Freedom

Article 147

(1) An official or responsible person in the institutions of Bosnia and Herzegovina who unlawfully imprisons another person, keeps him imprisoned or otherwise restricts his freedom of movement, shall be fined or punished by imprisonment for a term not exceeding three years.

(2) If the unlawful deprivation of freedom lasted for more than thirty days, or if the manner of its execution was cruel, or if such a treatment of the person unlawfully deprived of freedom caused grave impairment of his health, or if some other serious consequences occurred, the perpetrator shall be punished by imprisonment for a term of between two and eight years.

(3) If the person who was unlawfully deprived of freedom lost his life as a result of the deprivation, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

Unauthorised Interception and Audio and Video Recording

Article 147a

(1) An official or responsible person in the institutions of Bosnia and Herzegovina who, by means of special devices, makes an unauthorised interception or audio recording of a conversation or a statement not intended for his ears, or allows an uninvited individual to become acquainted with the unauthorised interception or audio recording of the conversation or statement, or who makes an unauthorised interception or recording of someone else's electronic messages from within the computer system,

shall be punished by imprisonment for a term of between six months and five years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on the official or responsible person in the institutions of Bosnia and Herzegovina who takes photographs, video footage or otherwise makes a recording of another individual on his premises without his consent, or directly transfers such a recording to third persons or shows it to them, or otherwise enables them to directly become acquainted with such recording.

Violation of the Right to File Appeals and Petitions

Article 148

An official or responsible person in institutions of Bosnia and Herzegovina who *by abusing his office or official authority* prevents another person from exercising his right to file an appeal, objection, request, petition or complaint,

shall be fined or punished by imprisonment for a term not exceeding *three* years.

Unauthorised Use of Personal Data

Article 149

An official or responsible person in institutions of Bosnia and Herzegovina who, without the consent of an individual and contrary to the conditions stipulated by the law, collects, processes or uses his personal data, or uses such data contrary to the statutory purpose of their collection,

shall be fined or punished by imprisonment for a term not exceeding six months.

Unlawful Withholding of Personal Identification Documents

Article 149a

Whoever unlawfully withholds from another person his personal or travel document with the aim of restricting his freedom of movement or exercising his power over such person,

shall be punished by imprisonment for a term of between six months and five years.

Violation of Electoral Rights

Article 150

Whoever, in the discharge of duty entrusted to him regarding elections for the institutions of Bosnia and Herzegovina, with the aim of preventing another person from exercising suffrage, unlawfully fails to enter his name in the electoral register, or strikes his name out of the electoral register, or otherwise prevents him from voting,

shall be fined or punished by imprisonment for a term not exceeding three years.

Violating Voters Freedom to Chose

Article 151

(1) Whoever, during elections for the institutions of Bosnia and Herzegovina or a recall vote or at a referendum, influences a voter in Bosnia and Herzegovina by the use of force, serious threat, coercion, bribery or by taking advantage of his indigent financial situation, or in any other illegal manner, to vote for or against a particular candidate or for or against a list of candidates, or for or against the recall, or for or against a proposal to be decided upon at the referendum, or not to vote at all,

shall be fined *and* punished by *imprisonment for a term not exceeding three years.*

(2) A member of election commission or some other person who perpetrates the criminal offence referred to in paragraph 1 of this Article in the discharge of duty entrusted to him regarding the elections, vote or referendum,

shall be punished by imprisonment for a term of between six months and five years.

Voting Fraud

Article 152

Whoever at an election for the institutions of Bosnia and Herzegovina or for the recalling of the representatives in the institutions of Bosnia and Herzegovina or at a referendum held within Bosnia and Herzegovina, *votes again* or votes under the name and instead of another person,

shall be punished by imprisonment for a term of between three months and five years

Violation of Secrecy of Voting

Article 153

(1) Whoever breaches the secrecy of the vote at an election for the institutions of Bosnia and Herzegovina, recall of representatives in the institutions of Bosnia and Herzegovina or a referendum held within Bosnia and Herzegovina,

shall be fined or punished by imprisonment for a term not exceeding six months.

(2) Whoever by force, serious threat or in some other illegal manner demands from a citizen to state for whom and how he voted, or whether he voted for or against a recall,

shall be fined or punished by imprisonment for a term not exceeding one year.

(3) A member of election commission or some other person who perpetrates the criminal offence referred to in paragraph 1 of this Article in discharge of duty related to the elections or vote,

shall be fined or punished by imprisonment for a term not exceeding three years.

Electoral Fraud

Article 154

Whoever falsifies results of an election or voting for the institutions of Bosnia and Herzegovina by adding, subtracting or deleting votes or signatures, by an inaccurate counting of votes, by making false records of the results in the election documents or in any other way, or who announces *as final* election or vote results which do not correspond to the voting completed,

shall be punished by imprisonment for a term of between six months and five years.

Destroying Election Documents

Article 155

Whoever at an election for the institutions of Bosnia and Herzegovina, a recall of representatives in the institutions of Bosnia and Herzegovina or a referendum held within Bosnia and Herzegovina destroys, conceals, damages or removes any document concerning the election or the recall vote, or any other object that is used for the election or the recall vote,

shall be punished by imprisonment for a term of between six months and five years.

Giving False Statements during Appointment Procedure

Article 155a)

(1) Whoever, with the aim of deceiving or keeping in deception the competent appointing authority or the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina or its competent committee as to his/her eligibility for appointment to the positions

of Chair, Minister or Deputy Minister of the Council of Ministers of Bosnia and Herzegovina or for his confirmation to those positions, during the appointment and confirmation procedure for those positions conducted pursuant to the law, gives a false statement, written or oral, regarding the data or information necessary for determining his eligibility, which he is obliged to submit pursuant to the law or another regulation, thus concealing or altering facts relevant to the appointment or confirmation decision,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) If the perpetrator voluntarily withdraws his false statement before the final decision on confirmation has been made, he

shall be fined or punished by imprisonment for a term not exceeding six months, but may also be relieved of punishment.

C H A P T E R X V I

CRIMINAL OFFENCES AGAINST THE INTEGRITY OF BOSNIA AND HERZEGOVINA

Attack on Constitutional Order

Article 156

Whoever, by physical force or threat of physical force, attempts to change the constitutional order of Bosnia and Herzegovina, or to overthrow its highest institutions, shall be punished by imprisonment for a term of not less than five years.

Endangering Territorial Integrity

Article 157

Whoever attempts to detach a part of the territory of Bosnia and Herzegovina by use of force or threat of force, or to conjoin a part of the territory thereof with another country, shall be punished by imprisonment for a term of not less than five years.

Preventing Fight against Enemy

Article 158

A citizen of Bosnia and Herzegovina who, in a time of war or armed conflict, prevents the citizens of Bosnia and Herzegovina or citizens of its allies from fighting against the enemy, shall be punished by imprisonment for a term of between one and ten years.

Service in Enemy's Army

Article 159

(1) A citizen of Bosnia and Herzegovina who serves in the enemy's army or other enemy's armed formations in time of war or armed conflict, or participates in a war or armed conflict as a combatant against Bosnia and Herzegovina or its allies,

shall be punished by imprisonment for a term of not less than three years.

(2) Whoever levies citizens of Bosnia and Herzegovina for service in the enemy's army or other enemy's armed formations, or for participation in a war or armed conflict against Bosnia and

Herzegovina or its allies,
shall be punished by imprisonment for a term of not less than five years.

Aiding the Enemy

Article 160

(1) A citizen of Bosnia and Herzegovina who aids the enemy in executing coercive measures against the people of Bosnia and Herzegovina in time of war,
shall be punished by imprisonment for a term of between one and ten years.

(2) A citizen of Bosnia and Herzegovina, who with the aim of aiding the enemy, collaborates with the enemy in time of war on political or economic grounds,
shall be punished by imprisonment for a term of not less than three years.

Undermining Military and Defensive Power

Article 161

(1) Whoever, with the aim of diminishing the defensive power of Bosnia and Herzegovina, destroys, renders useless or enables to pass into the hands of the enemy the defence installations, defence structures, positions, arms or other military or defensive equipment and supplies, or surrenders troops to the enemy, or with the same aim hinders or endangers the military or defence measures,

shall be punished by imprisonment for a term of not less than three years.

(2) Whoever procures the means for perpetrating the criminal offence referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of between one and ten years.

Armed Rebellion

Article 162

(1) Whoever takes part in an armed rebellion aimed against the constitutional order of Bosnia and Herzegovina or against its highest institutions,

shall be punished by imprisonment for a term of not less than three years.

(2) Whoever organises or at any level directs the perpetration of the criminal offence referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of not less than five years.

(3) Whoever procures the means for perpetrating the criminal offence referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of between one and ten years.

Illegal Establishment of Military Forces

Article 162a

(1) Whoever, in violation of the Law on Defence of Bosnia and Herzegovina or the Law on Service in the Armed Forces of Bosnia and Herzegovina, organises, trains, equips or mobilises a

military force in the territory of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of not less than five years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever in any way directs the perpetration of the criminal offence referred to in paragraph 1 of this Article.

(3) Whoever in any way joins a military force organised, trained, equipped or mobilised in violation of the Law on Defence of Bosnia and Herzegovina or the Law on Service in the Armed Forces of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of not less than three years.

(4) Whoever procures the means for perpetrating the criminal offence referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of between one and ten years.

Illegal Establishment and Joining Foreign Paramilitary or Parapolice Formations

Article 162b

(1) Whoever, in violation of the Law on Defence of Bosnia and Herzegovina or the Law on Service in the Armed Forces of Bosnia and Herzegovina, organises, directs, trains, equips or mobilises individuals or groups for the purpose of their joining in any way foreign military, foreign paramilitary or foreign parapolice formations operating outside the territory of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of not less than five years.

(2) Whoever in any way joins a foreign military, foreign paramilitary or foreign parapolice formation, trained, equipped or mobilised as provided by paragraph 1 of this Article,

shall be punished by imprisonment for a term of not less than three years.

(3) Whoever procures assets or renders them operable, removes obstacles, creates plans or makes arrangements with others or recruits another person or undertakes any other action creating the conditions for direct perpetration of this criminal offence,

shall be punished by imprisonment for a term of between one and ten years.

(4) Whoever publicly, by way of public media, distributes or in any other way communicates a message to the public, which has the purpose of inciting another person to perpetrate this criminal offence,

shall be punished by imprisonment for a term of between three months and three years.

(5) The perpetrator of the criminal offence referred to in paragraph 1 of this Article, who, by exposing the group, prevents the perpetration of the criminal offence or exposes the group prior to the perpetration of the criminal offence,

shall be punished by imprisonment for a term of between six months and three years, but may also be relieved of punishment.

(6) The provisions laid down in this Article shall not apply to persons who have, in a lawful manner, acquired the citizenship of a foreign country recognized by Bosnia and Herzegovina, in whose army or military formation they serve, or who serve in the military formations under control

of governments internationally recognized by the United Nations, established by law.

Espionage

Article 163

(1) Whoever discloses, delivers or renders available secret data to a foreign country, foreign organisation or a person in the service thereof,

shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever within Bosnia and Herzegovina creates an intelligence service detrimental to Bosnia and Herzegovina for the account of a foreign country or organisation, or whoever runs such service, shall be punished by imprisonment for a term of not less than five years.

(3) Whoever becomes a member of a foreign intelligence service, collects information for such a service or otherwise assists activities of such a service,

shall be punished by imprisonment for a term of between one and ten years.

(4) Whoever obtains secret data with the aim of disclosing or delivering such data to a foreign country, foreign organisation or a person in the service thereof,

shall be punished by imprisonment for a term of between one and ten years.

(5) Whoever procures the means for perpetrating the criminal offence referred to in paragraphs 1 and 2 of this Article,

shall be punished by imprisonment for a term of between one and ten years.

Disclosure of Secret Data

Article 164

(1) An official or responsible person in the institutions of Bosnia and Herzegovina or a military person, authorised to classify data or to access secret data, who without authorisation communicates, conveys or otherwise makes accessible to another secret data, or obtains secret data with the aim of communicating or conveying such data to an unauthorised person, shall be punished by imprisonment for a term of between six months and five years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, with the aim of making an unauthorised use of secret data, avails himself unlawfully of secret data or whoever communicates, conveys or otherwise makes accessible to another such secret data without permission; and whoever communicates, conveys or otherwise makes accessible to another or mediates in communicating, conveying or otherwise making accessible to another a fact or instrument which contains information and which he knows to constitute secret data, the possession of which he obtained in an illegal manner.

(3) The punishment of imprisonment for a term of between one and ten years shall be imposed on whoever perpetrates the criminal offence referred to in paragraphs 1 and 2 of this Article:

a) out of greed; or

b) in respect of data classified pursuant to the law as “strictly confidential” or with the degree of “secret”, or “state secret” or “top secret”; or

c) for the purpose of communicating, conveying or otherwise making accessible or using the

secret data outside of Bosnia and Herzegovina.

(4) If the criminal offence referred to in paragraphs 1 and 3 of this Article was perpetrated by a person who pursuant to the Law on the Protection of Secret Data is legally authorised to classify data or to access secret data of the degree in respect of which the criminal offence was perpetrated, the perpetrator shall be punished:

- a) for the criminal offence referred to in paragraph 1 of this Article by imprisonment for a term of not less than three years;
- b) for the criminal offence referred to in paragraph 3 of this Article by imprisonment for a term of not less than five years.

(5) If the criminal offence referred to in paragraphs 1, 2 and 3 of this Article has been perpetrated during a state of war or imminent threat of war or a state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

(6) If the criminal offence referred to in paragraphs 1 and 4 of this Article was perpetrated by negligence, the perpetrator shall be punished:

- a) for the criminal offence referred to in paragraph 1 of this Article by a fine or imprisonment for a term not exceeding three years;
- b) for the criminal offence referred to in paragraph 4 of this Article by imprisonment for a term of between three months and three years.

(7) If the criminal offence referred to in paragraph 6 of this Article was perpetrated in respect of data classified pursuant to the law as “strictly confidential” or with the degree of “secret”, or “state secret” or “top secret”, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(8) The provisions laid down in paragraphs 1, 3, 4, 5, 6 and 7 of this Article shall also apply to a person who without authorisation communicates, conveys or otherwise makes accessible to another secret data, after his term of office as an official or responsible person in the institutions of Bosnia and Herzegovina or as a military person or as a person authorised to classify data or to access secret data has ceased.

(9) There shall be no criminal offence of disclosure of secret data if somebody makes public or mediates in making public secret data the contents of which are in contravention of the constitutional order of Bosnia and Herzegovina, with the aim of disclosing to the public the irregularities attached to organising, operating or managing the office, or with the aim of disclosing to the public the facts constituting a violation of the constitutional order or of an international agreement, provided that the public disclosure has no substantial prejudicial consequences for Bosnia and Herzegovina.

Dispatching and Transferring Armed Groups, Arms and Ammunition to the Territory of Bosnia and Herzegovina

Article 165

Whoever dispatches or transfers to the territory of Bosnia and Herzegovina armed groups, terrorists,

spies, commando raiders, weapons, explosive, poison, equipment, ammunition or other material for the purpose of perpetrating criminal offences defined in this Chapter,
shall be punished by imprisonment for a term of between one and ten years.

Importing Hazardous Material into Bosnia and Herzegovina

Article 166

(1) Whoever, contrary to regulations of Bosnia and Herzegovina, imports into Bosnia and Herzegovina radioactive material or other material or waste harmful to the life or health of people, shall be fined or punished by imprisonment for a term not exceeding three years.

(2) Whoever by abuse of his office or authority, contrary to regulations, enables the import into Bosnia and Herzegovina of radioactive or other material or waste harmful to the life or health of people,

shall be punished by imprisonment for a term of between six months and five years.

Assassination of Representative of Highest Institutions of Bosnia and Herzegovina

Article 167

Whoever, with the intent of endangering the constitutional order of Bosnia and Herzegovina or security of Bosnia and Herzegovina, deprives of life an official person of the institutions of Bosnia and Herzegovina in the discharge of his duties, or a member of the Presidency of Bosnia and Herzegovina, the Chair of the Council of Ministers of Bosnia and Herzegovina, the Speaker of either of the Houses of the Parliamentary Assembly of Bosnia and Herzegovina, the President of the Constitutional Court of Bosnia and Herzegovina, the President of the Court of Bosnia and Herzegovina or the Chief Prosecutor of Bosnia and Herzegovina while not on duty, shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

Kidnapping Representative of Highest Institutions of Bosnia and Herzegovina

Article 168

(1) Whoever, with the intent of endangering the constitutional order of Bosnia and Herzegovina or security of Bosnia and Herzegovina, unlawfully confines, keeps confined or otherwise deprives of the freedom of movement an official person of the institutions of Bosnia and Herzegovina in the discharge of his duties, or otherwise restricts such freedom of movement, with the aim of forcing him or some other person to act or refrain from acting or to bear something,

shall be punished by imprisonment for a term of not less than three years.

(2) Whoever, with the intent of endangering the constitutional order of Bosnia and Herzegovina or security of Bosnia and Herzegovina, unlawfully confines, keeps confined or otherwise deprives of the freedom of movement, or otherwise restricts such freedom of movement of a member of the Presidency of Bosnia and Herzegovina, the Chair of the Council of Ministers of Bosnia and Herzegovina, the Speaker of either of the Houses of the Parliamentary Assembly of Bosnia and Herzegovina, the President of the Constitutional Court of Bosnia and Herzegovina, the President of the Court of Bosnia and Herzegovina or the Chief Prosecutor of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of not less than five years.

Punishment for Gravest Criminal Offences

Article 169

(1) For any of the criminal offences referred to in Article 156 (*Attack on the Constitutional Order*), 157 (*Endangering Territorial Integrity*), 161 (*Undermining Military and Defensive Power*), 162 (*Armed Rebellion*) and 163 (*Espionage*) of this Code, which caused the death of one person or multiple persons, or caused danger to human lives, or was coupled with heavy violence or a large-scale destruction, the perpetrator

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(2) If in the course of perpetrating criminal offences referred to in paragraph 1 of this Article the perpetrator intentionally deprived one or more persons of their lives, he

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

Setting up an Association or Procuring Means for Perpetration of Criminal Offences Defined in This Chapter

Article 170

Whoever sets up an association with the aim of perpetrating criminal offences defined in this Chapter, or whoever procures the means for perpetrating criminal offences defined in this Chapter, shall be punished by imprisonment for a term of *not less than three years*.

C H A P T E R XVII

CRIMES AGAINST HUMANITY AND VALUES PROTECTED BY INTERNATIONAL LAW

Genocide

Article 171

Whoever, with the aim of destroying, in whole or in part, a national, ethnical, racial or religious group, orders perpetration or perpetrates any of the following acts:

- a) killing members of the group;
- b) causing serious bodily or mental harm to members of the group;
- c) deliberately inflicting on the group or community such conditions of life that are calculated to bring about its physical destruction in whole or in part;
- d) imposing measures intended to prevent births within the group;
- e) forcibly transferring children of the group to another group,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

Crimes against Humanity

Article 172

(1) Whoever, as part of a widespread or systematic attack directed against any civilian population,

with knowledge of such an attack perpetrates any of the following acts:

- a) depriving another person of his life (murder);
- b) extermination;
- c) enslavement;
- d) deportation or forcible transfer of population;
- e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- f) torture;
- g) coercing another to sexual intercourse or an equivalent sexual act (rape), sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of severe sexual violence;
- h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognised as impermissible under international law, in connection with any offence listed in this paragraph of this Code, any offence listed in this Code or any offence falling under the jurisdiction of the Court of Bosnia and Herzegovina;
- i) enforced disappearance of persons;
- j) the crime of apartheid;
- k) other inhumane acts of a similar character, committed with the intent to cause great suffering or serious injury to body or to physical or mental health,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(2) For the purpose of paragraph 1 of this Article, the following terms shall mean as follows:

- a) *Attack directed against any civilian population* means a course of conduct involving multiple perpetration of the acts referred to in paragraph 1 of this Article against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such an attack.
- b) *Extermination* includes the intentional infliction of such conditions of life, especially deprivation of access to food and medicines, that are calculated to bring about the destruction of part of a population.
- c) *Enslavement* means the exercise of any or all of the powers attaching to the right of ownership over a person, and includes the exercise of such power in the course of trafficking in persons, in particular women and children.
- d) *Deportation or forcible transfer of population* means forced displacement of the persons concerned by expulsion or other coercive acts from the territory in which they are lawfully present, without grounds permitted under international law.
- e) *Torture* means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person *in the custody or under control of the perpetrator*, excluding the pain or suffering resulting exclusively from, or being inherent in or incidental to, lawful sanctions.
- f) *Forced pregnancy* means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.
- g) *Persecution* means the intentional and severe deprivation of fundamental rights, in violation of

international law, by reason of the identity of a group or collectivity.

- h) *Enforced disappearance of persons* means the arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a State or a political organisation, followed by a refusal to acknowledge such deprivation of freedom or give information on the fate or whereabouts of those persons, with the aim of removing them from the protection of the law for a prolonged period of time.
- i) *The crime of apartheid* means the inhumane acts of a character similar to those referred to in paragraph 1 of this Article, perpetrated in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups, perpetrated with the aim of sustaining that regime.

War Crimes against Civilians

Article 173

(1) Whoever in violation of rules of international law in time of war, armed conflict or occupation, orders or perpetrates any of the following acts:

- a) attack on civilian population, settlement, individual civilians or persons placed *hors de combat*, which results in the death, grave bodily injuries or serious damage to people's health;
- b) indiscriminate attack harming the civilian population;
- c) killings, intentional infliction of severe physical or mental pain or suffering upon a person (torture), inhuman treatment, biological, medical or other scientific experiments, taking of tissue or organs for the purpose of transplantation, immense suffering or violation of bodily integrity or health;
- d) dislocation or displacement or forced conversion to another nationality or religion;
- e) coercing another to sexual intercourse or an equivalent sexual act (rape) or forcible prostitution, application of measures of intimidation and terror, taking of hostages, imposing collective punishment, unlawful bringing to concentration camps and other illegal arrests and detention, deprivation of the right to a fair and impartial trial, forcible service in the armed forces of enemy's army or its intelligence service or administration;
- f) forced labour, starvation of the population, property confiscation, pillaging, illegal and arbitrary destruction and large-scale plunder of property unjustifiable by military needs, taking an illegal and disproportionate contribution or requisition, devaluation of domestic money or unlawful issuance of money,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever in violation of rules of international law, in time of war, armed conflict or occupation, orders or perpetrates any of the following acts:

- a) attack against structures under specific protection of international law, as well as installations and facilities containing dangerous forces, such as dams, embankments and nuclear power stations;
- b) indiscriminate targeting of civilian structures under specific protection of international law, of undefended places and demilitarised zones;
- c) long-lasting and large-scale environment devastation, which may be detrimental to the health or

survival of the population.

(3) Whoever, in violation of the rules of international law applicable in time of war, armed conflict or occupation, as an occupier orders or carries out the resettlement of parts of his civilian population into the occupied territory,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

War Crimes against the Wounded and Sick

Article 174

Whoever, in violation of the rules of international law in time of war or armed conflict, orders or perpetrates any of the following acts against wounded, sick, shipwrecked persons, medical personnel or clergy:

- a) depriving another person of his life (murder), intentional infliction of severe physical or mental pain or suffering upon persons (torture), inhuman treatment, including biological, medical or other scientific experiments, taking of tissue or organs for the purpose of transplantation;
- b) causing of great suffering or serious injury to bodily integrity or health;
- c) unlawful and arbitrary large-scale destruction or appropriation of materiel, means of medical transportation and stocks kept by medical facilities or units, which is not justified by military needs,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

War Crimes against Prisoners of War

Article 175

Whoever, in violation of the rules of international law, orders or perpetrates any of the following acts against prisoners of war:

- a) depriving another person of his life (murder), intentional infliction of severe physical or mental pain or suffering upon persons (torture), inhuman treatment, including biological, medical or other scientific experiments, taking of tissue or organs for the purpose of transplantation;
- b) causing of great suffering or serious injury to bodily integrity or health;
- c) compulsory enlistment into the armed forces of a hostile power, or deprivation of the right to a fair and impartial trial,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

Organising a Group of People and Instigating the Perpetration of Genocide, Crimes against Humanity and War Crimes

Article 176

(1) Whoever organises a group of people for the purpose of perpetrating the criminal offences referred to in Articles 171 (*Genocide*), 172 (*Crimes against Humanity*), 173 (*War Crimes against Civilians*), 174 (*War Crimes against the Wounded and Sick*) or 175 (*War Crimes against Prisoners of War*) of this Code,

shall be punished by imprisonment for a term of not less than ten years or a long-term

imprisonment.

(2) Whoever becomes a member of a group of people referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term of between one and ten years.

(3) A member of a group of people referred to in paragraph 1 of this Article who exposes the group before he has perpetrated a criminal offence within its ranks or on its account, shall be fined or punished by imprisonment for a term not exceeding three years, but may also be relieved of punishment.

(4) Whoever calls on or instigates the perpetration of the criminal offences referred to in Articles 171 through 175 of this Code, shall be punished by imprisonment for a term of between one and ten years.

Unlawful Killing or Wounding the Enemy

Article 177

(1) Whoever, in violation of the rules of international law in time of war or armed conflict, kills or wounds an enemy who has laid down arms or unconditionally surrendered or has no means to defend himself,

shall be punished by imprisonment for a term of between one and ten years.

(2) If the killing referred to in paragraph 1 of this Article has been perpetrated in a cruel or insidious manner, out of greed or for other low motives, or if multiple persons have been killed, the perpetrator

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(3) Whoever, in violation of the rules of international law in time of war or armed conflict, orders that there be no surviving enemy soldiers in a fight, or whoever fights against the enemy on such a basis,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

Marauding the Killed and Wounded at the Battlefield

Article 178

(1) Whoever orders the unlawful appropriation of belongings from the killed or wounded on battlefield, or who carries out such appropriation,

shall be punished by imprisonment for a term of between six months and five years.

(2) If the criminal offence referred to in paragraph 1 of this Article has been perpetrated in a cruel manner, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

Violations of the Laws or Customs of War

Article 179

(1) Whoever, in time of war or armed conflict, orders the violation of the laws or customs of war, or whoever violates them himself,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(2) Violations of the laws or customs of war referred to in paragraph 1 of this Article shall include:

- a) use of poison gases or other lethal substances or agents with the aim of causing unnecessary suffering;
- b) ruthless demolition of cities, settlements or villages, or devastation or ravaging unjustified by military needs;
- c) attack or bombardment, by whatever means, of undefended cities, villages, residences or buildings;
- d) confiscation, destruction or deliberate damaging of establishments intended for religious, charitable or educational purposes, science and art, historical monuments and scientific and artistic works;
- e) plundering and looting public and private property.

Individual and Command Responsibility

Article 180

(1) A person who planned, ordered, perpetrated or otherwise aided and abetted in the planning, preparation or execution of the criminal offence referred to in Articles 171 (*Genocide*), 172 (*Crimes against Humanity*), 173 (*War Crimes against Civilians*), 174 (*War Crimes against the Wounded and Sick*), 175 (*War Crimes against Prisoners of War*), 177 (*Unlawful Killing or Wounding of the Enemy*), 178 (*Marauding the Killed and Wounded at the Battlefield*) and 179 (*Violations of the Laws and Customs of War*) of this Code, shall be guilty of the criminal offence. The official position of any individual, whether being Head of State or Government or a responsible government official person, shall not relieve such person of culpability nor mitigate punishment.

(2) The fact that any of the criminal offences referred to in Articles 171 through 175 and Articles 177 through 179 of this Code was perpetrated by a subordinate shall not relieve his superior of culpability if he knew or had reason to know that the subordinate was about to commit such an offence, or had done so and the superior failed to take the necessary and reasonable measures to prevent the commission of the offence or to punish the perpetrators thereof.

(3) The fact that a person acted pursuant to an order of a Government or of a superior shall not relieve him of culpability, but may be considered in mitigation of punishment if the court determines that the interest of justice so requires.

Violating the Protection Granted to Bearers of Flags of Truce

Article 181

Whoever, in violation of the rules of international law in time of war or armed conflict, insults, maltreats or detains the bearer of the flag of truce or his escort, or prevents them from returning, or in any other manner violates their privilege of inviolability,

shall be punished by imprisonment for a term of between six months and five years.

Unjustified Delay of the Repatriation of Prisoners of War

Article 182

Whoever, in violation of the rules of international law, after the termination of a war or armed conflict, orders or conducts an unjustifiable delay in the repatriation of prisoners of war or civilians, shall be punished by imprisonment for a term of between six months and five years.

Destruction of Cultural, Historical and Religious Monuments

Article 183

(1) Whoever, in violation of the rules of international law in time of war or armed conflict, destroys cultural, historical or religious monuments, buildings or establishments devoted to science, art, education, humanitarian or religious purposes,

shall be punished by imprisonment for a term of between one and ten years.

(2) If a clearly distinguishable structure, under special protection of international law as people's cultural and spiritual heritage, has been destroyed by the criminal offence referred to in paragraph 1 of this Article, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

Misuse of International Emblems

Article 184

(1) Whoever misuses or without authorisation carries the flag or emblem of the Organisation of the United Nations, or the emblem or flags of the Red Cross, or symbols corresponding to them, or any other recognised international symbols marking certain structures to protect them from military operations,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article during a state of war or imminent war danger,

shall be punished by imprisonment for a term of between six months and five years.

Establishment of Slavery and Transport of Enslaved Persons

Article 185

(1) Whoever, in violation of the rules of international law, places another in slavery or in a similar status or keeps him in such a status, buys, sells, hands over to another person or mediates the purchase, sale or handing over of such a person or induces someone else to sell his own freedom or the freedom of a person he provides for or takes care of,

shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever, in violation of the rules of international law, buys, sells, hands over to another person or mediates the purchase, sale or handing over persons under the age of 18 for the purpose of adoption, removing parts of human body, exploitation by labour or for other illicit purposes,

shall be punished by imprisonment for a term of not less than five years.

(3) Whoever, in violation of the rules of international law, transports persons who are in a position of slavery or in a similar status,

shall be punished by imprisonment for a term of between six months and five years.

International Human Trafficking

Article 186

(1) Whoever, by use of force or threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power or influence or a position of vulnerability, or by giving or receiving payments or benefits to obtain the consent of a person having control over another person, recruits, transports, transfers, harbours or receives a person for the purpose of exploitation of that person in the state where that person has no permanent residence or is not a citizen thereof,

shall be punished by imprisonment for a term of not less than five years.

(2) Whoever recruits, solicits, transports, transfers, harbours or receives a person under the age of 18 for the purpose of exploitation by prostitution or other forms of sexual exploitation, forced labour or services, slavery or a similar status, servitude or the removal of parts of human body or of some other type of exploitation in the state where that person has no permanent residence or is not a citizen thereof,

shall be punished by imprisonment for a term of not less than ten years.

(3) If the criminal offence referred to in paragraphs 1 and 2 of this Article has been committed by an official person in the performance of his official duty, the perpetrator

shall be punished by imprisonment for a term of not less than ten years.

(4) Whoever counterfeits, procures or issues travel or identification documents, or uses, holds, seizes, alters, damages or destroys travel or identification documents of another person with the purpose of facilitating international human trafficking,

shall be punished by imprisonment for a term of between one and five years.

(5) Whoever uses the services of victims of international human trafficking

shall be punished by imprisonment for a term of between six months and five years.

(6) If the perpetration of the criminal offence referred to in paragraphs 1 and 2 herein has caused serious health damage, grievous bodily harm or the death of the persons referred to in paragraphs 1 and 2, the perpetrator

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(7) Exploitation, for the purposes of paragraph 1 of this Article means: prostitution of another person or other forms of sexual exploitation, forced labour or services, slavery or a similar status, servitude or the removal of parts of human body or any other type of exploitation.

(8) Instrumentalities, conveyances and facilities used for the perpetration of offences shall be confiscated.

(9) Whether the person who is a victim of international human trafficking consented to the

exploitation bears no relevance to the existence of the criminal offence of international human trafficking.

(10) No criminal proceedings shall be conducted against the victim of international human trafficking whom the perpetrator of the criminal offence had coerced to participate in the perpetration of another criminal offence if such victim's action was a direct consequence of his/her status of the victim of international human trafficking.

Organised International Human Trafficking

Article 186a

(1) Whoever organises or directs a group or another association that by acting together perpetrates the criminal offence referred to in Article 186 (International Human Trafficking),

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(2) Whoever perpetrates the criminal offence within the group or another association referred to in paragraph 1 of this Article, or in other way assists the group or association,

shall be punished by imprisonment for a term of not less than ten years.

(3) The provisions set forth in Article 250 (Organised Crime), paragraphs 4 and 5, of this Code shall apply to members of the organised group or another association referred to in paragraph 1 of this Article.

International Enticing Persons into Prostitution

Article 187

(1) Whoever, for profit or any other benefit, entices, incites or lures another person into offering sexual services, or in any other way enables his/her transfer to another for the purpose of offering sexual services, or in any other way participates in organizing or directing the offering of sexual services in the state where that person has no permanent residence or is not a citizen thereof,

shall be punished by imprisonment for a term of between six months and five years.

(2) Whether the person enticed, incited or lured into prostitution has already been engaged in prostitution is of no relevance for the existence of the criminal offence.

Unlawful Withholding of Identity Papers

Article 188

(deleted)

Smuggling of Persons

Article 189

(1) Whoever, with the intent of procuring gain for himself or someone else, illegally transports or enables transportation across the state border of one or more migrants or other persons, or whoever with the same purpose makes, obtains or possesses false travel or personal documents,

shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever recruits, transports, harbours, protects or otherwise enables smuggled persons to

stay in Bosnia and Herzegovina,

shall be punished by imprisonment for a term of between six months and five years.

(3) If the offences under paragraphs 1 and 2 have been perpetrated by members of a structured group, or an organised crime group, by abuse of official duty, or in a manner that poses a threat to life, health or safety of the smuggled persons, or if those persons were exploited or treated in another inhuman or degrading manner, the perpetrator

shall be punished by imprisonment for a term of between three and fifteen years.

(4) The punishment under paragraph 3 of this Article shall also be imposed on the perpetrator of the criminal offences referred to in paragraphs 1 and 2 of this Article whose victims were under the age of 18.

(5) In the event that the offences under paragraphs 1 and 2 resulted in the death of one or more smuggled persons, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

(6) The instrumentalities or means of transportation used for the purpose of perpetration of the offence shall be confiscated.

Organizing a Group or Association for the Purpose of Perpetrating the Criminal Offence of
'Smuggling of Migrants'

Article 189a

(1) Whoever organises a group or another association for the purpose of perpetrating the criminal offence referred to in Article 189 of this Code (Smuggling of Persons),

shall be punished by imprisonment for a term of not less than three years.

(2) Whoever becomes a member of the group or the association referred to in paragraph 1 of this Article, or otherwise assists the group or association,

shall be punished by imprisonment for a term of not less than one year.

(3) The provisions set forth in Article 250 of this Code (Organised Crime) shall apply to the organiser or ringleader of the structured group or the association who perpetrated the offences under paragraph 1 of this Article and the members thereof.

Torture and Other Forms of Cruel and Inhuman Treatment

Article 190

(1) An official in the institutions of Bosnia and Herzegovina or any other person acting in the capacity of an official in the institutions of Bosnia and Herzegovina who, acting on orders, instigation or with the explicit or implicit consent of an official person in the institutions of Bosnia and Herzegovina or any other person acting in the capacity of an official in the institutions of Bosnia and Herzegovina, inflicts on another person physical or mental pain or severe physical or mental suffering for the purposes of obtaining information or confession from him or from a third person, or punishing him for a criminal offence he or a third person has perpetrated or is suspected of having perpetrated or who intimidates or coerces him for any other reason based on any discriminatory ground,

shall be punished by imprisonment for a term of not less than six years.

(2) The punishment referred to in paragraph 1 of this Article shall also be imposed on an official in the institutions of Bosnia and Herzegovina or any other person acting in the capacity of an official in the institutions of Bosnia and Herzegovina who ordered or instigated the perpetration of the criminal offence, or who gave his explicit consent or knew about and implicitly consented to the perpetration of the criminal offence referred to in paragraph 1 of this Article.

Forced Disappearance

Article 190a

(1) An official in the institutions of Bosnia and Herzegovina or any other person acting in the capacity of an official in the institutions of Bosnia and Herzegovina who, acting on orders, instigation or with the explicit or implicit consent of an official person in the institutions of Bosnia and Herzegovina, incarcerates another person, keeps him/her incarcerated or deprives him/her of freedom of movement, and in the process refuses to admit that he has deprived him/her of freedom, or withholds information on the destiny or whereabouts of such person, thus putting him/her beyond the protection of the law,

shall be punished by imprisonment for a term of not less than eight years.

(2) The punishment referred to in paragraph 1 of this Article shall also be imposed on an official in the institutions of Bosnia and Herzegovina who ordered or instigated the perpetration of the criminal offence, or who gave his explicit consent or knew about and implicitly consented to the perpetration of the criminal offence referred to in paragraph 1 of this Article.

(3) Whoever, as a superior, knew about or consciously disregarded information that his subordinate perpetrator had perpetrated the criminal offence referred to in paragraph 1 of this Article or that he is about to perpetrate the criminal offence, and was responsible and had control over the actions related to the perpetration of the criminal offence referred to in paragraph 1 of this Article, but failed to take all required and reasonable measures within his power to prevent or frustrate the perpetration of the criminal offence referred to in paragraph 1 of this Article, or to defer the issue to the state authorities for investigation and criminal prosecution,

shall be punished by imprisonment for a term of not less than eight years.

(4) The fact that a person acted pursuant to an order of a Government or of a superior shall not relieve him of guilt, but may be considered in mitigation of punishment if the court finds that the interests of justice so require. Any person who refuses to execute such an order shall not be punished.

Taking of Hostages

Article 191

(1) Whoever unlawfully confines, keeps confined or in some other manner deprives or restricts another person's freedom of movement, or seizes or detains and threatens to kill, injure or keep him detained as a hostage, with the aim of compelling **Bosnia and Herzegovina, another** state or an international intergovernmental organisation, to act or refrain from acting, as an explicit or implicit condition for the release of the hostage,

shall be punished by imprisonment for a term of **not less than three years**.

(2) If the criminal offence referred to in paragraph 1 of this Article has resulted in the death of the hostage, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

(3) If, in the course of the perpetration of the criminal offence referred to in paragraph 1 of this Article, the perpetrator deprives the hostage of his life with intent, he

shall be punished by imprisonment for a term of not less than ten years or by a long-term imprisonment.

Endangering Internationally Protected Persons

Article 192

(1) Whoever unlawfully confines, keeps confined or in some other manner deprives or restricts the freedom of movement of an internationally protected person with the aim of forcing him or some other person to act or refrain from acting, or perpetrates some other act of violence against such a person or his liberty, or attacks his official premises, private accommodation or means of transportation, which is likely to endanger his person or liberty,

shall be punished by imprisonment for a term of *not less than three years*.

(2) If the death of one or more people resulted from the perpetration of the criminal offence referred to in paragraph 1 of this Article, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

(3) If in the course of the perpetration of the criminal offence referred to in paragraph 1 of this Article the perpetrator deprived another person of his life with intent, he

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(4) Whoever endangers the safety of the person referred to in paragraph 1 of this Article by a serious threat to attack him, his official premises, private apartment or means of transportation, shall be punished by imprisonment for a term of between six months and five years.

Illicit Trafficking in Arms and Military Equipment and Products of Dual Use

Article 193

(1) Whoever imports, exports, transports or mediates the trade in arms and military equipment without the license prescribed by the law of Bosnia and Herzegovina or in contravention of international law, or whoever gives false statements or fails to provide material facts in the process of licensing under the law of Bosnia and Herzegovina, or whoever fails to register the agreement regarding arms or military equipment pursuant to the law of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of *not less than three years*.

(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article in regard to products, software or technology that may be used for military purposes.

shall be punished by imprisonment for a term of between one and five years.

(3) Whoever organises a group of people with the aim of perpetrating the criminal offence referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(4) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article by negligence,

shall be punished by imprisonment for a term of between six months and five years.

(5) Whoever perpetrates the criminal offence referred to in paragraph 2 of this Article by negligence,

shall be fined or punished by imprisonment for a term not exceeding three years.

(6) **The arms, military equipment and products of dual use, as well as the means of their transportation or distribution, shall be confiscated.**

Forbidden Arms and Other Means of Combat

Article 193a

(1) Whoever, contrary to the regulations of Bosnia and Herzegovina or rules of international law, makes or improves, manufactures, procures, stockpiles or stores, offers for sale or buys, mediates in the purchase or sale or in some other way directly or indirectly transfers to another, possesses or transports chemical or biological weapons, or some other means of combat prohibited by the rules of international law,

shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever uses in any way chemical or biological weapons or means of combat prohibited by the rules of international law,

shall be punished by imprisonment for a term of five years or a long-term imprisonment.

(3) Whoever uses means of riot control as a method of warfare,

shall be punished by imprisonment for a term of between one and three years.

(4) Whoever, in time of war or armed conflict, orders the use of chemical or biological weapons, or some other means or method of combat prohibited by the rules of international law, or whoever uses them himself,

shall be punished by imprisonment for a term of not less than three years.

(5) If the criminal offence referred to in paragraphs 1, 2 and 3 of this Article resulted in the death of one or more persons, or if grave consequences for the health of people or animals or grave consequences for the environment have occurred, the perpetrator

shall be punished by imprisonment for a term of not less than five years or a long-term imprisonment.

(6) Whoever militarily prepares the use of arms, means or methods referred to in paragraph 2 of this Article,

shall be punished by imprisonment for a term not exceeding three years.

(7) **Chemical or biological weapons, or some other means of combat prohibited by the rules of international law, or means of riot control disorder referred to in this Article, as well as means of their transport or distribution, shall be confiscated.**

Unauthorised Trafficking in Chemicals

Article 193b)

(1) Whoever imports, exports, transports or mediates the sale or trafficking in chemicals without the licence prescribed by the Law on the Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (hereinafter: the Law on the Convention Implementation), or whoever gives false data in the procedure for issuance of the licence under the Law on the Convention Implementation,

shall be punished by imprisonment for a term of between three and ten years.

(2) Whoever organises a group of people with the aim of perpetrating the offence referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of five years or a long-term imprisonment.

(3) Whoever perpetrates the offence referred to in paragraph 1 of this Article by negligence, shall be punished by imprisonment for a term of between six months and five years.

(4) The chemicals referred to in this Article shall be confiscated.

Activities Contrary to the Regimes Prescribed by the Law on Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction

Article 193c)

(1) Whoever engages in activities contrary to the regimes for the activities including the chemicals from Schedule 1 and Schedule 2 of the Law on the Convention Implementation, shall be punished by imprisonment for a term of between one and five years.

(2) Whoever engages in activities contrary to the regimes for the activities including the chemicals from Schedule 3 of the Law on the Convention Implementation, shall be punished by imprisonment for a term of between one and three years.

(3) Whoever stockpiles chemicals without a licence prescribed by the Law on the Convention Implementation, shall be punished by imprisonment for a term of between six months and three years.

(4) The chemicals referred to in paragraph 3 of this Article shall be confiscated.

Illicit Procurement and Disposal of Nuclear Material

Article 194

(1) Whoever, without authorisation, obtains, receives, hands over or enables another person to come into possession of or to possess, use, transport, process, dispose of, store or disperse nuclear or some other radioactive materials or devices,

shall be punished by imprisonment for a term not exceeding five years.

(2) Whoever obtains nuclear or some other radioactive materials or devices by theft, deceit, force,

threat or by any other form of intimidation,

shall be punished by imprisonment for a term of between one and ten years.

(3) Whoever, by perpetrating the offences referred to in paragraphs 1 and 2 of this Article, causes danger to human life or health, or substantial danger to property or the environment,

shall be punished by imprisonment for a term of not less than three years.

(4) If the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article has resulted in the death of one or more persons, or substantial property or environmental damage, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

(5) Whoever perpetrates the criminal offence referred to in paragraphs 1 and 3 of this Article by negligence,

shall be punished by imprisonment for a term not exceeding three years.

(6) Whoever perpetrates the criminal offence referred to in paragraph 4 of this Article by negligence,

shall be punished by imprisonment for a term not exceeding ten years.

(7) Whoever, in order to compel a State, international organisation or a natural person or legal entity to act or refrain from acting, threatens to endanger the lives of people or property on a large scale through the use of nuclear materials,

shall be punished by imprisonment for a term of not less than three years.

(8) The nuclear or other radioactive materials or devices referred to in this Article, as well as the means of their transport, shall be confiscated.

Endangering a Nuclear Facility

Article 194a

(1) Whoever perpetrates a criminal offence with the aim of impeding the operation of a nuclear facility, or uses or damages the nuclear facility in the manner that causes danger of nuclear or other radioactive leakage,

shall be punished by imprisonment for a term of between one and five years.

(2) Whoever, by the perpetration of the criminal offence referred to in paragraph 1 of this Article causes danger to human life or health, or substantial danger to property or the environment,

shall be punished by imprisonment for a term of not less than one year.

(3) Whoever perpetrates the criminal offence referred to in paragraphs 1 and 2 of this Article by negligence,

shall be fined or punished by imprisonment for a term not exceeding three years.

(4) If the perpetration of the criminal offence referred to in paragraphs 1 and 2 of this Article has resulted in the death of one or more persons, or substantial property or environmental damage, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

(5) Whoever perpetrates the criminal offence referred to in paragraph 4 of this Article by negligence,

shall be punished by imprisonment for a term of between one and ten years.

(5) Whoever threatens to commit one of the offences referred to in paragraphs 1 and 2 of this Article,

shall be punished by imprisonment for a term not exceeding three years.

Illicit Trafficking in Narcotic Drugs

Article 195

(1) Whoever without authorisation performs an international sale or transfer, or offers for such sale, or purchases, keeps, transports or transfers for the purpose of such sale, or mediates an international sale or purchase, sends, delivers, imports or exports or otherwise puts into unauthorised international circulation substances or preparations which are by regulation proclaimed narcotic drugs,

shall be punished by imprisonment for a term of **not less than three years**.

(2) Whoever organises a group of people with the aim of perpetrating the criminal offence referred to in paragraph 1 of this Article, or whoever becomes a member of such a group of people,

shall be punished by imprisonment for a term of not less than **five years**.

(3) Whoever, in international transaction, without authorisation makes, procures, mediates or gives for use the equipment, material or substances knowing that they are to be used for the manufacturing of narcotic drugs,

shall be punished by imprisonment for a term of between **one and ten years**.

(4) The narcotic drugs and means for their production shall be confiscated.

Piracy

Article 196

(1) A crew member or a passenger on a vessel or an aircraft, other than a military or public vessel or aircraft, who, with the aim of securing for himself or for another some material or non-material gain, or inflicting damage on another, perpetrates in the open sea or in a place which is not under the rule of any state an act of unlawful violence or some other type of coercion against another vessel or aircraft, or persons or objects on them,

shall be punished by imprisonment for a term of between one and ten years.

(2) If the criminal offence referred to in paragraph 1 of this Article has resulted in the death of one or more persons or the destruction of a vessel or an aircraft, or in some other extensive destruction, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

(3) If in the course of the perpetration of the criminal offence referred to in paragraph 1 of this Article, the perpetrator intentionally kills one or more persons, he

shall be punished by imprisonment for a term of not less than ten years or by a long-term imprisonment.

Hijacking an Aircraft or a Ship or Seizing a Fixed Platform

Article 197

(1) Whoever on board an aircraft while airborne, ship or another vessel of any type **or a fixed platform**, by force or threat of force, or by any other form of intimidation, seizes or takes control of that aircraft, ship or vessel,

shall be punished by imprisonment for a term of not less than one year.

(2) If the criminal offence referred to in paragraph 1 results in the death of one or more persons, or if it caused the destruction of the hijacked aircraft, ship, vessel **or fixed platform**, or some other property damage, the perpetrator

shall be punished by a term of imprisonment of not less than five years.

(3) If, in the course of the perpetration of the offence referred to in paragraph 1 of this Article, a person was intentionally deprived of his life, the perpetrator

shall be punished by imprisonment for a term of not less than ten years or by a long-term imprisonment.

Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms

Article 198

(1) Whoever performs an act of violence against a person on board an aircraft while airborne, destroys an aircraft in service or causes damage to such an aircraft, places or causes to be placed on an aircraft in service, by any means whatsoever, an explosive or other device or substance capable of destroying or damaging the aircraft, destroys or damages air navigation facilities or instruments of navigation or interferes with their operation, **communicates information he knows to be false**, fails to discharge duties or supervision in relation to air traffic safety or perpetrates another act of violence endangering the safety of the flight,

shall be punished by imprisonment for a term of between one and ten years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever performs an act of violence against a person at an international airport or destroys or seriously damages airport facilities or an aircraft not in service, or disrupts the airport services.

(3) **The punishment referred to in paragraph 1 of this Article shall be imposed on whoever performs violence against a person on board a ship or vessel or fixed platform, destroys a ship or vessel or fixed platform, or causes damage to a ship or vessel or their cargo or to a fixed platform, places or causes to be placed on a ship or vessel, or fixed platform, by any means whatsoever, an explosive or some other device or substance capable of destroying or damaging the ship, vessel or their cargo, or a fixed platform, destroys or damages maritime navigational facilities or interferes with their operation, communicates information he knows to be false, or perpetrates another act of violence endangering the safe navigation or the safety of the voyage of the ship or the safety of the vessel or fixed platform.**

(4) If a person was intentionally deprived of his life in the course of the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, the perpetrator

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(5) If the criminal offence referred to in paragraphs 1 through 3 of this Article has resulted in the death of one or more persons, or in the destruction of or extensive damage to an aircraft, ship, vessel or fixed platform, or in any other extensive property damage, the perpetrator shall be punished by imprisonment for a term of not less than five years.

(6) Whoever perpetrates the criminal offence referred to in paragraphs 1 through 3 of this Article by negligence, shall be fined or punished by imprisonment for a term not exceeding three years.

(7) If the criminal offence referred to in paragraph 6 of this Article has resulted in the death of one or more persons, or in the destruction or extensive damage to an aircraft, ship, vessel or fixed platform or in any other extensive property damage, the perpetrator shall be punished by imprisonment for a term of between one and ten years.

Destruction and Removal of Signal Devices Utilised for Air Traffic Safety

Article 199

Whoever destroys, damages or removes a signal device utilised for air traffic safety, shall be fined or punished by imprisonment for a term not exceeding three years.

Misuse of Telecommunication Signals

Article 200

Whoever maliciously or needlessly transmits an internationally recognized signal of distress or a danger signal, or whoever, by the use of a telecommunication signal, causes deception that there is safety, or whoever misuses an internationally recognized telecommunication signal, shall be punished by imprisonment for a term of between six months and five years.

Terrorism

Article 201

(1) Whoever perpetrates a terrorist act with the aim of seriously intimidating a population or unduly compelling the Bosnia and Herzegovina authorities, government of another state or international organisation to perform or abstain from performing any act, or with the aim of seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of Bosnia and Herzegovina, of another state or international organisation, shall be punished by imprisonment for a term of not less than five years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in the death of one or more persons, the perpetrator shall be punished by imprisonment for a term of not less than eight years.

(3) If in the course of the perpetration of the criminal offence referred to in paragraph 1 of this Article the perpetrator intentionally deprived another person of his life, he shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(4) Whoever procures or prepares any means of, or removes an obstacle to, or undertakes any

other act to create conditions for, the perpetration of the criminal offence under paragraph 1 of this Article, shall be punished by imprisonment for a term of between one and ten years.

(5) A *terrorist act*, in terms of this Article, means one of the following acts which, given its nature or context, may cause serious damage to a state or international organisation:

- a) attack upon person's life, which may cause his/her death;
- b) attack upon the physical integrity of a person;
- c) unlawful confinement of another person, keeping confined or in some other manner depriving or restricting another person's freedom of movement, with the aim of forcing him or some other person to act or refrain from acting or to bear something (kidnapping) or taking hostages;
- d) causing extensive destruction to facilities of Bosnia and Herzegovina, of another state government, or to a public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;
- e) seizure of an aircraft, ship or other means of public or goods transportation;
- f) manufacture, possession, acquisition, transport, supply, use of or training for the use of weapons, explosives, nuclear, biological or chemical weapons or radioactive materials, as well as research into and development of biological and chemical weapons or radioactive materials;
- g) release of dangerous substances, or causing fires, explosions or floods the effect of which is to endanger human life;
- h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;
- i) threatening to commit any of the acts listed to in items a) through h) of this paragraph.

Funding of Terrorist Activities

Article 202

(1) Whoever, by any means, directly or indirectly, provides, collects or otherwise raises funds aiming to use them or knowing that they are to be used, in whole or in part, for the perpetration of any of the criminal offences referred to in Article 191 (Taking Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering a Nuclear Facility), 196 (Piracy), 197 (Hijacking an Aircraft or a Ship or Seizing a Fixed Platform), 198 (Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilized for Air Traffic Safety), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202a (Public Inciting to Terrorist Activities), 202b (Recruiting for Terrorist Activities), and 202c (Training for Terrorist Activities) of this Code, or any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking active part in the hostilities in an armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or compel the authorities of Bosnia and Herzegovina or any other government or an international organization to act or refrain from acting, regardless of whether the terrorist activities have been perpetrated and whether the funds have been used for the perpetration of the terrorist activities, shall be punished by imprisonment for a term of not less than three years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on any person who, by any means, directly or indirectly, provides or collects or otherwise raises the funds:

- a) *aiming to enable their use, in whole or in part, by terrorist organizations or individual*

terrorists, for any purpose, or

b) knowing that they are to be used, in whole or in part, for the perpetration of the criminal offences referred to in paragraph 1 of this Article, by terrorist organizations or individual terrorists.

(3) The collected funds designated for the perpetration of or generated through the perpetration of the criminal offence referred to in paragraph 1 of this Article, shall be confiscated.

(4) The funds referred to in paragraphs 1 and 2 of this Article shall include the funds of any kind, whether they comprise property or rights, either tangible or intangible, movable or immovable, regardless of how they have been acquired, and legal documents or instruments in any form, including electronic or digital, proving the ownership or the right to ownership over such property, including, but not limited to, bank loans, travellers checks, bank checks, money orders, shares, securities, bonds, bills of exchange and letters of credit.

Encouraging Terrorist Activities in Public

Article 202a

Whoever publicly, through the media, disseminates or otherwise sends out a message to the public with the aim of encouraging another person to perpetrate any of the criminal offences referred to in the following Articles of this Code: 191 (Taking Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or a Ship or Seizing a Fixed Platform), 198 (Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilised for Air Traffic Safety), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202 (Funding of Terrorist Activities), 202b (Recruitment for Terrorist Activities), 202c (Training to Perform Terrorist Activities) and 202d (Organising a Terrorist Group),

shall be punished by imprisonment for a term of not less than three years.

Recruitment for Terrorist Activities

Article 202b.

Whoever recruits or incites another person to perpetrate or participate or assist in the perpetration, or join a terrorist group for the purpose of perpetrating any of the criminal offences referred to in the following Articles of this Code: 191 (Taking Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or a Ship or Seizing a Fixed Platform), 198 (Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilised for Air Traffic Safety), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202 (Funding of Terrorist Activities), 202a (Encouraging Terrorist Activities in Public) and 202c (Training to Perform Terrorist Activities),

shall be punished by imprisonment for a term of not less than three years.

Training to Perform Terrorist Activities

Article 202c

(1) Whoever trains another person to manufacture or use explosives, firearms or other weapons

or harmful or dangerous materials or explosive devices, or otherwise trains another person in specific methods, techniques or skills with the purpose of perpetrating any of the criminal offences referred to in the following Articles of this Code: 191 (Taking Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or a Ship or Seizing a Fixed Platform), 198 (Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilised for Air Traffic Safety), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202 (Funding of Terrorist Activities), 202a (Encouraging Terrorist Activities in Public) and 202b (Recruitment for Terrorist Activities),

shall be punished by imprisonment for a term of not less than three years.

(2) Whoever provides means for the training, or otherwise renders available a facility or a space, knowing they will be used for the perpetration of the criminal offence referred to in paragraph 1 of this Article,

shall be punished by the sentence foreseen in paragraph 1 of this Article.

Organising a Terrorist Group

Article 202d

(1) Whoever organises a terrorist group or otherwise unites a minimum of three individuals for the purpose of perpetration of any of the criminal offences referred to in the following Articles of this Code: 191 (Taking Hostages), 192 (Endangering Internationally Protected Persons), 194 (Illicit Procurement and Disposal of Nuclear Material), 194a (Endangering Nuclear Facilities), 196 (Piracy), 197 (Hijacking an Aircraft or a Ship or Seizing a Fixed Platform), 198 (Endangering the Safety of Air Traffic and Maritime Navigation or Fixed Platforms), 199 (Destruction and Removal of Signal Devices Utilised for Air Traffic Safety), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202 (Funding of Terrorist Activities), 202a (Encouraging Terrorist Activities in Public), 202b (Recruitment for Terrorist Activities) or 202c (Training to Perform Terrorist Activities),

shall be punished by imprisonment for a term of not less than five years.

(2) Whoever becomes a member of the group referred to in paragraph 1 of this Article or otherwise participates in the activities of a terrorist group, which includes providing financial or any other assistance,

shall be punished by imprisonment for a term of not less than three years.

(3) A member of the group referred to in paragraph 1 of this Article who exposes the group before participating in a criminal offence as its member or on its behalf,

shall be fined or punished by imprisonment for a term not exceeding three years, and may even be relieved of punishment.

Failure to Enforce Orders and Judgements of International Criminal Tribunal

Article 203

An official person in the institutions of Bosnia and Herzegovina, Entity institutions and the institutions of the Brčko District of Bosnia and Herzegovina who refuses to act upon the order of

the International Criminal Tribunal to arrest or detain or extradite to the International Criminal Tribunal a person against whom proceedings have been initiated before the International Criminal Tribunal or if he in any other way prevents the enforcement of that order, or who refuses the enforcement of a final and enforceable judgement of the International Criminal Tribunal or if he in any other way prevents the enforcement of such judgement, shall be punished by imprisonment for a term of between one and ten years.

CHAPTER XVIII

CRIMINAL OFFENCES AGAINST ECONOMY AND MARKET INTEGRITY, AND CUSTOMS CRIMES

Violation of Equality in Performing Economic Activities

Article 204

Whoever, by misusing his official or influential position or powers in the institutions of Bosnia and Herzegovina, restricts the free movement of people, goods, services and capital between the Entities and among the Entities and the Brčko District of Bosnia and Herzegovina, denies or restricts the right of a business enterprise or another legal entity to engage in the trade and sale of goods and services on the territory of the other Entity or the Brčko District of Bosnia and Herzegovina, or puts a business enterprise or another legal entity in an unequal position in relation to other legal entities regarding the conditions for work or turnover of goods and services, or restricts free exchange of goods and services among the Entities and the Brčko District of Bosnia and Herzegovina, shall be punished by imprisonment for a term of between six months and five years.

Counterfeiting of Money

Article 205

(1) Whoever makes false money with the aim of bringing it into circulation as genuine, or whoever alters genuine money with the aim of bringing it into circulation, or whoever brings such counterfeit money into circulation,

shall be punished by imprisonment for a term of between one and ten years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever procures counterfeit money with the aim of bringing it into circulation as genuine.

(3) If there has been an upset in the economy of Bosnia and Herzegovina as a result of the criminal offence referred to in paragraphs 1 and 2 of this Article, the perpetrator shall be punished by imprisonment for a term of not less than five years.

(4) Whoever brings into circulation counterfeit money received by him as genuine, or who has knowledge of a counterfeit money being made or brought into circulation, and fails to report it, shall be fined or punished by imprisonment for a term not exceeding one year.

(5) Counterfeit money shall be confiscated.

Counterfeiting of Securities

Article 206

(1) Whoever makes false securities issued pursuant to the regulations of Bosnia and Herzegovina with the aim of bringing them into circulation as genuine, or whoever alters such genuine securities with the aim of bringing them into circulation, or whoever brings such counterfeit securities into circulation,

shall be punished by imprisonment for a term of between one and ten years.

(2) If there has been an upset in the economy of Bosnia and Herzegovina as a result of the criminal offence referred to in paragraph 1 of this Article, the perpetrator

shall be punished by imprisonment for a term not less than five years.

(3) Counterfeit securities shall be confiscated.

Counterfeiting of Instruments of Value

Article 207

(1) Whoever makes false tax or mail stamps or other instruments of value issued pursuant to the regulations of Bosnia and Herzegovina, or whoever alters some of these genuine instruments of value with the aim of using them as genuine or letting another person use them, or whoever uses such counterfeit instruments of value as genuine or procures them for such purposes,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) If the instruments of value referred to in paragraph 1 of this Article are of higher value, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(3) Whoever removes the cancelling stamp from an instrument of value referred to in paragraph 1 of this Article, or whoever in some other way, and for the purpose of repeated use, attempts to make these instruments of value appear as if they have never been used before, or whoever makes use of these used instruments of value or sells them as valid,

shall be fined or punished by imprisonment for a term not exceeding three years.

(4) Counterfeit instruments of value shall be confiscated.

Forgery of Trademarks, Measures and Weights

Article 208

(1) Whoever, with the aim of using as genuine, makes false trademarks used for the identification of domestic or foreign commodities, such as seals, stamps or hallmarks for branding gold, silver, livestock, wood or some other commodities, or with the same aim alters such genuine trademarks, or whoever uses false trademarks as genuine, when such an act endangers the common economic space of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of between six months and five years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever makes false measures or weights, endangering the common economic space of Bosnia and Herzegovina.

(3) False trademarks, measures and weights shall be confiscated.

Money Laundering

Article 209

- (1) Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other business operations, the money or some other property he knows was acquired through the perpetration of a criminal offence, or performs its conversion or transfer or otherwise conceals or attempts to conceal its nature, origin, location, disposal, movement, ownership or another right, and such moneys or assets representing the proceeds of crime were acquired by the perpetration of a criminal offence:
- a) abroad or throughout the territory of Bosnia and Herzegovina or in the territory of the two Entities or in the territory of one Entity and the Brčko District of Bosnia and Herzegovina or
b) which is prescribed by the Criminal Code of Bosnia and Herzegovina or other state level legislation,
shall be punished by imprisonment for a term of between one and eight years.
- (2) The perpetrator of the offence referred to in paragraph 1 of this Article who is at the same time a perpetrator or an accomplice in the perpetration of a criminal offence whereby the moneys or assets representing the proceeds of crime referred to in paragraph 1 of this Article were acquired,
shall be punished by imprisonment for a term of between one and ten years.
- (3) If the moneys or assets representing the proceeds of crime referred to in paragraph 1 of this Article exceed the amount of 200,000 KM, the perpetrator shall be punished by imprisonment for a term of not less than three years.
- (4) If the perpetrator, during the perpetration of the criminal offence referred to in paragraphs 1 and 2 of this Article, acted negligently with respect to the fact that the moneys or assets represent the proceeds of crime, he shall be fined or punished by imprisonment for a term not exceeding three years.
- (5) The money, material gain, income, profit or other gain representing the proceeds of crime referred to in paragraphs 1 through 4 of this Article shall be confiscated.
- (6) The knowledge, intention or purpose as elements of the criminal offence referred to in paragraph 1 of this Article may be evaluated on the grounds of objective factual circumstances.

Tax Evasion or Fraud

Article 210

- (1) Whoever evades the payment of duties required under the tax legislation of Bosnia and Herzegovina by not submitting the required information, or by submitting false information on the acquired taxable income or on other facts which may affect the determination of the amount of such liability, if the amount evaded exceeds 10,000 KM,
shall be punished by imprisonment for a term of between six months and five years.
- (2) The punishment foreseen under paragraph 1 of this Article shall also be imposed on whoever, with the aim of exercising the right to tax refund or indirect tax credit provided under

the tax legislation of Bosnia and Herzegovina, files a false tax return with the amount of the presented tax refund or indirect tax credit exceeding 10,000 KM.

(3) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article, if the evaded liability exceeds the amount of 50,000 KM, or perpetrates the offence referred to in paragraph 2 of this Article if the presented amount of tax refund or indirect tax credit exceeds 50,000 KM,

shall be punished by imprisonment for a term of between one and ten years.

(4) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article if the evaded liability exceeds the amount of 200,000 KM, or perpetrates the criminal offence in violation of paragraph 2 of this Article if the presented amount of tax refund or indirect tax credit exceeds 200,000 KM,

shall be punished by imprisonment for a term of not less than three years.

Illicit Trade in Excise Products

Article 210a.

(1) Whoever illegally manufactures, puts on the market or sells products that are not marked with control and tax stamps in the manner prescribed by the tax legislation of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of between six months and five years.

(2) The products referred to in paragraph 1 of this Article shall be confiscated.

Unauthorised Storage of Goods

Article 210b.

(1) Whoever stores goods taxable pursuant to the tax legislation of Bosnia and Herzegovina on the premises not registered for that purpose in accordance with the law, or whoever allows that goods be stored on his premises not registered for such purposes,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever stores goods taxable pursuant to the tax legislation of Bosnia and Herzegovina on the premises registered for that purpose in accordance with the legislation on the storage of goods, if such goods are not accompanied by the prescribed documentation on the origin of goods and the taxes paid.

Failure to Pay Taxes

Article 211

(1) Whoever by transfer or misappropriation of property, dissolution of a company or otherwise prevents the collection of declared taxes prescribed under the tax legislation of Bosnia and Herzegovina, if the liability evaded exceeds the amount of 50,000 KM,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article, if the tax evaded exceeds the amount 100,000 KM,

shall be punished by imprisonment for a term of between one and ten years.

(3) Whoever commits the offence referred to in paragraph 1 of this Article, if the tax evaded exceeds the amount 200,000 KM,

shall be punished by imprisonment of not less than three years.

(4) If the perpetrator settles the liabilities referred to in paragraphs 1, 2 and 3 of this Article, the perpetrator may be relieved of punishment.

Illicit Trade

Article 212

(1) Whoever, without authorisation, sells, buys or exchanges items or goods whose distribution is forbidden or limited pursuant to the regulations of the institutions of Bosnia and Herzegovina or international law, providing no other criminal offence carrying a more severe punishment has been perpetrated by such an act,

shall be punished by imprisonment for a term of between one and ten years.

(2) The items and goods referred to in paragraph 1 of this Article shall be confiscated.

Illicit Manufacturing

Article 213

(1) Whoever manufactures or processes items or goods whose production is prohibited pursuant to the regulations of the institutions of Bosnia and Herzegovina or international law, providing no other criminal offence carrying a more severe punishment has been perpetrated by such an act, shall be fined or punished by imprisonment for a term not exceeding one year.

(2) The goods referred to in paragraph 1 of this Article and the means for its manufacturing or processing shall be confiscated.

Smuggling of Goods

Article 214

(1) Whoever, by avoiding measures of customs control, moves across the customs line goods of higher value, or whoever, by avoiding measures of customs control, is engaged in moving goods across the customs line,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) Whoever, without appropriate approval, by avoiding custom control measures, moves across the customs line goods whose export or import is prohibited, limited or requires special approval or approval from an authorised body,

shall be punished by imprisonment for a term of between six months and five years.

(3) If the objects, goods or substances that were moved through the customs line by way of the criminal offence referred to in paragraphs 1 and 2 are dangerous to the life or health of people or represent danger to public security, or if the criminal offence was perpetrated by the use of weapons, force or threat, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(4) The goods, substances and other items referred to in paragraphs 1 through 3 of this Article shall be confiscated.

(5) The means of transportation whose secret or hidden compartments were used for transporting the smuggled goods referred to in paragraphs 1 through 3 of this Article, or which was intended for the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, shall be confiscated if the proprietor or user of the means of transportation knew, had reason to know or ought to have known thereof.

Organising a Group or Association for Smuggling or Distribution of Goods on Which Duties Were Not Paid

Article 215

(1) Whoever organises a group or another association for organised smuggling, or a network of middlemen or mediators for the sale or distribution of goods on which the duties were not paid, shall be punished by imprisonment for a term of not less than three years.

(2) Whoever becomes a member of the group or association referred to in the previous paragraph, shall be punished by imprisonment for a term of not less than one year.

Customs Fraud

Article 216

(1) Whoever, with the aim of evading personally or having another person evade the payment of duties or other obligations payable on the import of goods whose amount exceeds 5,000 KM, makes or submits to the customs authority a false customs declaration, certificate or another false document,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) If the obligation referred to in paragraph 1 of this Article exceeds the amount of 20,000 KM, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(3) If the obligation referred to in paragraph 1 of this Article exceeds the amount of 80,000 KM, the perpetrator

shall be punished by imprisonment for a term of not less than three years.

C H A P T E R X I X

CRIMINAL OFFENCES OF CORRUPTION AND CRIMINAL OFFENCES AGAINST OFFICIAL DUTIES OR OTHER RESPONSIBLE DUTIES

Accepting Gifts and Other Forms of Benefit

Article 217

(1) An official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person or an international official or arbitrator or lay judge, who demands or accepts a gift or any other benefit for himself or another person, or who accepts a promise of a gift or a benefit for himself or another person in order to perform, within the scope of his official function, an act that ought not to be performed by him, or who intercedes in such bribing of an official or responsible person, or to refrain from an act that ought to be performed by him,

shall be punished by imprisonment for a term of between one and ten years.

(2) An official or responsible person in the institutions of Bosnia and Herzegovina, including also a foreign official person or an international official or arbitrator or lay judge, who demands or accepts a gift or any other benefit for himself or another person or who accepts a promise of a gift or a benefit for himself or another person in order to perform, within the scope of his official function, an act that ought to be performed by him, or who intercedes in such bribing of an official or responsible person, to refrain from an act that ought not to be performed by him,

shall be punished by imprisonment for a term of between six months and five years.

(3) The punishment referred to in paragraph 1 of this Article shall be imposed on an official or responsible person in the institutions of Bosnia and Herzegovina, including also a foreign official person or an international official or arbitrator or lay judge, who, after the act or omission referred to in paragraphs 1 and 2 of this Article and in relation thereto, demands or accepts a gift or any other benefit for himself or another person.

(4) The gifts or any other benefits shall be confiscated.

Giving Gifts and Other Forms of Benefit

Article 218

(1) Whoever gives or promises a gift or any other benefit for himself or another person to an official or responsible person in the institutions of Bosnia and Herzegovina, including also a foreign official person or an international official or arbitrator or lay judge, in order that he performs within the scope of his official function an act that ought not to be performed by him, or refrains from performing an act that ought to be performed by him, or whoever mediates in such bribing of the official or responsible person,

shall be punished by imprisonment for a term of between six months and five years.

(2) Whoever gives or promises a gift or any other benefit for himself or another person to an official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person or an international official or arbitrator or lay judge, in order that he performs within the scope of his official function an act that ought to be performed by him, or refrains from performing an act that ought not to be performed by him, or whoever mediates in such bribing of the official or responsible person,

shall be fined or punished by imprisonment for a term not exceeding three years.

(3) The perpetrator of the criminal offence referred to in paragraphs 1 and 2 of this Article who had given a bribe on request of the official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person or an international official, or arbitrator or lay judge, but reported the deed before it was discovered or before learning that the deed has been discovered,

may be relieved of punishment.

(4) The gifts or any other benefits shall be confiscated.

Accepting Reward or Other Forms of Benefit for Trading in Influence

Article 219

(1) Whoever directly or indirectly demands or receives or accepts a reward or any other benefit or promise of a reward or any other benefit for himself or another person in order to intercede, by using his actual or presumed official position or social position or position of influence or another status, that an official or responsible person in the institutions of Bosnia and Herzegovina or a foreign official person or an international official or arbitrator or lay judge perform or not perform official or other actions,

shall be punished by imprisonment for a term of between six months and five years.

(2) Whoever intercedes, by using his official position or social position or position of influence or another status, that an official or responsible person in the institutions of Bosnia and Herzegovina or a foreign official person or an international official or arbitrator or lay judge perform or not perform official or other actions,

shall be punished by imprisonment for a term of between one and eight years.

(3) If the perpetrator has demanded or received or accepted a reward or any other benefit for himself or another person for perpetration of the criminal offence referred to in paragraph 2 of this Article, he

shall be punished by imprisonment for a term of between one and ten years.

(4) Any received reward or some other benefit shall be confiscated.

Giving Reward or Other Forms of Benefit for Trading in Influence

Article 219a

(1) (1) Whoever directly or indirectly gives or offers or promises to a person holding an official position or social position or a position of influence or another status a reward or any other benefit in order to intercede that an official or responsible person in the institutions of Bosnia and Herzegovina or a foreign official person or an international official or arbitrator or lay judge perform or not perform official or other actions,

(2) shall be punished by imprisonment for a term of between six months and five years.

(3) (2) Whoever directly or indirectly, at the request of a person holding an official position or social position or a position of influence or another status, perpetrates the criminal offence referred to in paragraph 1 of this Article, but reports the deed before it is discovered or before learning that the deed has been discovered, may be relieved of punishment.

(4) (3) Any received reward or some other benefit shall be confiscated, and in the case referred to in paragraph 2 of this Article, it may be returned to the person who had given the reward or some other benefit.

Abuse of Office or Official Authority

Article 220

(1) An official or responsible person in the institutions of Bosnia and Herzegovina who, by taking advantage of his office or official authority, exceeds the limits of his official authority or fails to execute his official duty and thereby acquires benefit for himself or for another person, or causes

damage to another person or seriously violates the rights of another,
shall be punished by imprisonment for a term of between six months and five years.

(2) If the proceeds of crime referred to in paragraph 1 of this Article exceed the amount of 10,000 KM, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(3) If the proceeds of crime referred to in paragraph 1 of this Article exceed the amount of 50,000 KM the perpetrator

shall be punished by imprisonment for a term of not less than three years.

(4) **The proceeds of crime shall be confiscated.**

Embezzlement in Office

Article 221

(1) Whoever, with the aim of acquiring proceeds of crime for himself or another, appropriates money, securities or other movables entrusted to him by virtue of his office in the institutions of Bosnia and Herzegovina, or generally of his position within the institutions of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of between six months and five years.

(2) If the proceeds of crime referred to in paragraph 1 of this Article exceed the amount of 10,000 KM, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(3) If the proceeds of crime referred to in paragraph 1 of this Article exceed the amount of 50,000 KM, the perpetrator

shall be punished by imprisonment for a term of not less than three years.

(4) **The money, securities or other movables, as well as the proceeds of crime, shall be confiscated.**

Fraud in Office

Article 222

(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who, with the aim of acquiring proceeds of crime for himself or another, by submitting false accounts or in some other way deceives an authorised person into making an illegal disbursement,

shall be punished by imprisonment for a term of between six months and five years.

(2) If the proceeds of crime referred to in paragraph 1 of this Article exceed the amount of 10,000 KM, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(3) If the proceeds of crime referred to in paragraph 1 of this Article exceed the amount of 50,000 KM, the perpetrator

shall be punished by imprisonment for a term of not less than three years.

(4) **The proceeds of crime shall be confiscated.**

Using Property of the Office

Article 223

Whoever makes an unauthorised use of money, securities or other movables entrusted to him by virtue of his office in the institutions of Bosnia and Herzegovina, or generally in service in the institutions of Bosnia and Herzegovina or without authorisation confers these things to another person for unauthorised use,

shall be punished by imprisonment for a term of between six months and five years.

Lack of Commitment in Office

Article 224

(1) An official or responsible person in the institutions of Bosnia and Herzegovina who knowingly breaches law or other regulations or general acts, or fails to exercise due supervision, and thus manifestly acts in a clearly unconscientious manner in the discharge of his official duties, and if such action of his results in a serious violation of rights of another or a property damage whose value exceeds the amount of 1,000 KM,

shall be punished by **imprisonment for a term of between three months and five years.**

(2) If a serious violation of another person's right or damage to property exceeding the amount of 10,000 KM has occurred as a result of the criminal offence referred to in paragraph 1 of this Article, the perpetrator

shall be punished by imprisonment for a term of between **one and ten years.**

Disclosure of Official Secret

Article 225

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Forging Official Documents

Article 226

(1) An official or responsible person in the institutions of Bosnia and Herzegovina who enters false data in an official or business document, book or file, or who fails to enter important data, or who by his signature or official seal certifies an official or business document, book or file containing false data, or who by his signature or official seal facilitates the drawing up of such documents, books or files containing false data,

shall be punished by imprisonment for a term of between six months and five years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on an official or responsible person who, while in the office or business, uses a false official or business document, book or file as if they were authentic, or who destroys, conceals, substantially damages or in some other way renders useless any official or business document, book or file.

Illegal Collection and Disbursement

Article 227

An official or responsible person in the institutions of Bosnia and Herzegovina who collects from another something which the latter is not obligated to pay, or collects in excess of what he is obligated to pay, or who during a payment or delivery pays or delivers less than required, shall be fined or punished by imprisonment for a term not exceeding three years.

Unlawful Release of a Detainee

Article 228

An official person in the institutions of Bosnia and Herzegovina who unlawfully releases another person detained and entrusted to him, or who aids his escape, or *enables* him/her to maintain illegal contact or correspondence with the purpose of preparing escape,

shall be punished by imprisonment for a term of *between one and ten years*.

Unlawful Appropriation of Objects During Search or Enforcement Procedure

Article 229

An official person in the institutions of Bosnia and Herzegovina who during the search of premises or persons, or while carrying out an enforcement procedure, appropriates a movable object with the aim of obtaining illegal material benefit for himself or another,

shall be punished by imprisonment for a term of between one and ten years.

C H A P T E R XX

CRIMINAL OFFENCES AGAINST ADMINISTRATION OF JUSTICE

Failure to Report a Criminal Offence or a Perpetrator

Article 230

(1) Whoever, having knowledge of the identity of the perpetrator of a criminal offence carrying a punishment of long-term imprisonment under the law of Bosnia and Herzegovina, or merely knowing of the perpetration of such an offence, fails to report the fact, although the timely discovery of the perpetrator or the offence depends on such a report,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on an official or responsible person who fails to report a criminal offence he has discovered while performing his duties, if the offence carries a punishment of imprisonment for a term of five years or a more severe punishment under the law of Bosnia and Herzegovina.

(3) No punishment for failure to report the criminal offence referred to in paragraphs 1 and 2 of this Article shall be imposed on a person who is the spouse, cohabiting partner, first-line blood relative, brother or sister, adoptive parent or adopted child or their spouse or cohabiting partner, or defence lawyer, medical doctor or confessional priest of the perpetrator.

Failure to Report a Person Indicted by the International Criminal Tribunal

Article 231

(1) Whoever, having knowledge of the whereabouts of a person indicted by the International Criminal Tribunal, and having knowledge of the fact of such an indictment, fails to report such whereabouts, although the timely discovery of the wanted person depends on such a report, shall be punished by imprisonment for a term not exceeding three years.

(2) No punishment for the failure to report a person referred to in paragraph 1 of this Article shall be imposed on a person who is the spouse, cohabiting partner, first-line blood relative, brother or sister, adoptive parent or adopted child or their spouse or cohabiting partner, or defence lawyer, medical doctor or confessional priest of the perpetrator.

Failure to Report a Mass Grave Site

Article 231a

Whoever, having knowledge of a mass grave site, fails to report its location, shall be punished by imprisonment for a term not exceeding three years.

Accessory after the Fact

Article 232

(1) Whoever harbours a person who has perpetrated a criminal offence prescribed by the law of Bosnia and Herzegovina, or aids him to avert being discovered by concealing instruments, traces or in any other way, or whoever harbours a person convicted under the law of Bosnia and Herzegovina or takes steps towards frustrating the execution of punishment, imposed security measure or educational institutional measure prescribed by the law of Bosnia and Herzegovina, shall be fined or punished by imprisonment for a term not exceeding one year.

(2) Whoever renders assistance to the perpetrator of a criminal offence carrying a punishment of imprisonment of three years or a more severe punishment under the law of Bosnia and Herzegovina, shall be punished by imprisonment for a term of between six months and five years.

(3) Whoever renders assistance to the perpetrator of a criminal offence carrying the punishment of long-term imprisonment under the law of Bosnia and Herzegovina, shall be punished by imprisonment for a term of between one and ten years.

(4) The punishment referred to in paragraph 1 of this Article may not be more severe either in type or in magnitude than the punishment imposed for the criminal offence in respect of which the assistance after the fact was rendered.

(5) No punishment shall be imposed for the criminal offence referred to in paragraphs 1 through 3 of this Article on a person who is the spouse, cohabiting partner, first-line blood relative, brother or sister, adoptive parent or adopted child or their spouse or cohabiting partner, or defence lawyer, medical doctor or confessional priest of the perpetrator.

Accessory to a Person Indicted by the International Criminal Tribunal

Article 233

(1) Whoever renders assistance to or harbours a person indicted by the International Criminal

Tribunal or aids him to elude discovery,
shall be punished by imprisonment for a term not exceeding three years.

(2) No punishment for the criminal offence referred to in the paragraph 1 of this Article shall be imposed on a person who is the spouse, cohabiting partner, first-line blood relative, brother or sister, adoptive parent or adopted child or their spouse or cohabiting partner, or defence lawyer, medical doctor or confessional priest of the perpetrator.

False Information about Criminal Offence

Article 234

(1) Whoever reports a particular person of having perpetrated a criminal offence prescribed by the law of Bosnia and Herzegovina, knowing that such person is not the perpetrator,

shall be punished by imprisonment for a term of between six months and five years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever forges evidence of a criminal offence or in some other way causes the institution of prosecution for a criminal offence prescribed by the law of Bosnia and Herzegovina against a person who he knows was not the perpetrator.

(3) Whoever reports himself as having perpetrated a criminal offence prescribed by the law of Bosnia and Herzegovina, although not being the perpetrator of that criminal offence,

shall be fined or punished by imprisonment for a term not exceeding six months.

(4) The punishment referred to in paragraph 3 of this Article shall be imposed on whoever reports a criminal offence prescribed by the law of Bosnia and Herzegovina despite knowing that such an offence has not been perpetrated.

Giving False Statements

Article 235

(1) A witness, expert witness, translator or interpreter who makes a false statement during court, minor offence, administrative or disciplinary proceedings before the institutions of Bosnia and Herzegovina,

shall be fined or punished by imprisonment for a term not exceeding three years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever gives false testimony during the presentation of evidence by hearing parties in a civil action or administrative proceedings before the institutions of Bosnia and Herzegovina, if the final decision is based on such testimony.

(3) If the false statement has been made in the course of criminal proceedings, the perpetrator shall be punished by imprisonment for a term of between six months and five years.

(4) If particularly grave consequences for the accused have occurred as a result of the criminal offence referred to in paragraph 3 of this Article, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(5) If the perpetrator voluntarily withdraws his false statement before the final decision has been made, he

shall be fined or punished by imprisonment for a term not exceeding six months, and may also be relieved of punishment.

Tampering with Evidence

Article 236

(1) Whoever makes a witness or a court witness give a false testimony during court, minor offence, administrative or disciplinary proceedings before the institutions of Bosnia and Herzegovina by force, use of threat or any other form of duress, or promise of a gift or some other benefit, shall be punished by imprisonment for a term of between six months and five years.

(2) Whoever, with the aim of preventing or hampering the providing of evidence during court, minor offence, administrative or disciplinary proceedings before the institutions of Bosnia and Herzegovina, conceals, damages, destroys or renders unserviceable someone else's object or document that may be used as evidence,

shall be fined or punished by imprisonment for a term not exceeding three years.

Breach of Secrecy of Proceedings

Article 237

(1) Whoever without authorisation reveals to another a fact or instrument which contains information obtained as a result of investigative, court, minor offence or administrative proceedings before the institutions of Bosnia and Herzegovina, which under the law must not be disclosed or has been classified as secret data by a decision of the Court of Bosnia and Herzegovina or by an authorised person,

shall be punished by imprisonment for a term not exceeding three years.

(2) Whoever without authorisation makes public, mediates in making public, enables a publication or renders accessible a fact or instrument which contains information obtained as a result of investigative, court, minor offence or administrative proceedings before the institutions of Bosnia and Herzegovina, which under the law must not be disclosed or has been classified as secret data by a decision of the Court of Bosnia and Herzegovina or by an authorised person,

shall be punished by imprisonment for a term of between six months and five years.

Violation of Law by a Judge

Article 238

A judge of the Constitutional Court of Bosnia and Herzegovina or the Court of Bosnia and Herzegovina who, with the aim of benefiting another, or harming another, passes an illegal decision or otherwise violates the law in the discharge of his official duties,

shall be punished by imprisonment for a term of between six months and five years.

Failure to Enforce Decisions of the Constitutional Court of Bosnia and Herzegovina, Court of Bosnia and Herzegovina, Human Rights Chamber or the European Court of Human Rights

Article 239

An official person in the institutions of Bosnia and Herzegovina, institutions of the Entities and institutions of the Brčko District of Bosnia and Herzegovina, who refuses to enforce the final and

enforceable decision of the Constitutional Court of Bosnia and Herzegovina, Court of Bosnia and Herzegovina, Human Rights Chamber or the European Court of Human Rights, or if he prevents the enforcement of such a decision, or otherwise hampers the enforcement of the decision, shall be punished by imprisonment for a term of between six months and five years.

Protected Witness Identity Disclosure

Article 240

(1) Whoever without authorisation discloses, delivers or takes some other action with the aim of disclosing to another person data on the identity or information which can lead to the disclosure of the identity of a person who has given or is about to give evidence before the institutions of Bosnia and Herzegovina, which under the law must not be disclosed or has been classified as **secret data** by a decision of the Court of Bosnia and Herzegovina or by **an authorised person**,

shall be punished by imprisonment for a term of between three months and three years.

(2) A judge of the Court of Bosnia and Herzegovina or another official person who makes available to an unauthorised person the data or information referred to in paragraph 1 of this Article,

shall be punished by imprisonment for a term of between six months and five years.

(3) The punishment referred to in paragraph 2 of this Article shall be imposed on whoever, without authorisation, makes public, mediates in making public, enables a publication or renders accessible the data or information referred to in paragraph 1 of this Article.

(4) Whoever, having accidentally obtained the disclosed but not publicised data or information referred to in paragraph 1 of this Article, communicates or renders accessible such data or information, knowing of their nature,

shall be fined or punished by imprisonment not exceeding one year.

(5) The perpetrator of the criminal offence referred to in paragraphs 1 and 3 of this Article who, at the request of the competent body, does not reveal the source and manner of obtaining the data,

shall be punished by imprisonment for a term of between one and eight years.

(6) The perpetrator of the criminal offence referred to in paragraph 4 of this Article who, at the request of the competent body, does not reveal the source and manner of obtaining the data or information referred to in paragraph 1 of this Article,

shall be fined or punished by imprisonment for a term not exceeding three years.

Obstruction of Justice

Article 241

(1) Whoever uses physical force, threats or intimidation or promises, offers or gives undue advantage to induce false testimony or to interfere with the giving of testimony or the production of evidence in criminal proceedings conducted pursuant to the law of Bosnia and Herzegovina, shall be punished by imprisonment for a term of **not less than three years**.

(2) Whoever uses physical force, threats or intimidation to interfere with the exercise of official duties by a judge, prosecutor or a law enforcement official person in relation to criminal proceedings conducted pursuant to the law of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of between one and ten years.

Preventing Official Person in the Exercise of Official Duty

Article 241a

(1) Whoever uses force or threatens to directly use force to prevent an official person in the institutions of Bosnia and Herzegovina in the exercise of his official duties within the scope of his authority, or whoever in the same way forces him to perform an official duty,

shall be punished by imprisonment for a term of between three months and three years.

(2) If an official person subjected to the criminal offence referred to in paragraph 1 of this Article was abused or if he sustained light bodily injuries or if the criminal offence was committed at gunpoint, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(3) Whoever commits the criminal offence referred to in paragraphs 1 and 2 of this Article against an official person while performing tasks related to the security of Bosnia and Herzegovina, while apprehending the perpetrator of a criminal offence or guarding a person deprived of liberty,

shall be punished by imprisonment for a term of between one and ten years.

(4) If the perpetrator of the criminal offence referred to in paragraphs 1 through 3 of this Article was provoked by an unlawful or inconsiderate treatment by the official person, the perpetrator may be relieved of punishment.

Attack against Official Persons on Tasks of Security, Detection and Apprehension of Perpetrators of Criminal Offences

Article 241b

(1) Whoever attacks or seriously threatens to attack an official person in the institutions of Bosnia and Herzegovina or a person assisting him while performing tasks related to the security of Bosnia and Herzegovina, while detecting or apprehending the perpetrator of criminal offences or guarding a person deprived of liberty,

shall be punished by imprisonment for a term of between three months and three years.

(2) If an official person or a person assisting him has sustained light bodily injuries as a result of the criminal offence referred to in paragraph 1 of this Article, or if the criminal offence referred to in paragraph 1 of this Article was committed at gunpoint, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(3) If an official person or a person assisting him has sustained serious bodily injuries as a result of the criminal offence referred to in paragraph 1 of this Article, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(4) If the perpetrator of the criminal offence referred to in paragraphs 1 through 3 of this Article was provoked by an unlawful or inconsiderate treatment by the official person or a person assisting him, the perpetrator may be relieved of punishment.

C H A P T E R X X I
CRIMINAL OFFENCES OF COPYRIGHTS VIOLATION

Copyright Infringement

Article 242

- (1) Whoever, under his own or a name of another, publishes, shows, performs, transmits or otherwise communicates to the public someone else's work which under the law of Bosnia and Herzegovina is considered as a copyright protected product, or allows this to be done, shall be fined or punished by imprisonment for a term not exceeding three years.
- (2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, without indicating the name or pseudonym of the author, publishes, shows, performs, transmits or otherwise communicates to the public someone else's work referred to in paragraph 1 of this Article on which the name and pseudonym of the author is indicated, or in an unauthorised manner incorporates parts of someone else's work referred to in paragraph 1 into his own copyright protected product or allows this to be done.
- (3) Whoever, without the author's permission, destroys, distorts, damages or in any other way changes someone else's work referred to in paragraph 1 of this Article, shall be fined or punished by imprisonment for a term not exceeding three years.
- (4) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, without indicating the name or pseudonym of the performing artist, unless the performing artist prefers to stay anonymous, publishes, shows, performs, transmits or otherwise communicates to the public his artistic performance.
- (5) The punishment referred to in paragraph 3 of this Article shall be imposed on whoever destroys, distorts, damages, mutilates or otherwise alters, without the authorisation of the performing artist, the recorded performance of the performing artist.
- (6) If by the criminal offence referred to in paragraphs 1 through 5 of this Article substantial proceeds of crime have been obtained or considerable damage done, whereas the perpetrator has acted with a view to obtaining such proceeds of crime or causing such damage, the perpetrator shall be punished by imprisonment for a term of between six months and five years.

Unauthorised Use of Copyrights

Article 243

- (1) Whoever, without the authorisation of the author or another copyright holder, or the person entitled to give authorisation, where such authorisation is required under the law of Bosnia and Herzegovina, or contrary to their prohibition, fixes on a material surface, reproduces, multiplies, distributes, rents, imports, brings across the state border, presents, performs, broadcasts, transmits, makes available to the public, translates, adapts, arranges, alters or otherwise uses the authorial work, shall be fined or punished by imprisonment for a term not exceeding three years.
- (2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, without the authorisation of the performing artist or the person entitled to give authorisation, where such

authorisation is required under the law of Bosnia and Herzegovina, or, contrary to their prohibition, records, reproduces, multiplies, distributes, rents, imports, brings across the state border, presents, performs, broadcasts, transmits, makes available to the public or otherwise uses his performance.

(3) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, with the aim of facilitating the unauthorised use of the author's work or the performing artist's performance, produces, imports, brings across the state border, distributes, rents or allows others to use and exploit any kind of equipment or device whose sole or main purpose is to facilitate the unauthorised removal or circumvention of any technical device or computer program designed for the protection of the author's and performing artist's rights against unauthorised use.

(4) A person in whose possession the instrumentalities intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, are found, and who knew, had reason to know or ought to have known about it,

shall be fined or punished by imprisonment for a term not exceeding six months.

(5) If the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article has resulted in a substantial financial gain or has caused substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(6) The instrumentalities intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article shall be confiscated and destroyed.

Unauthorised Use of Rights of Sound Recording Producers

Article 244

(1) Whoever, without the authorisation of the producer of a sound recording, where such authorisation is required under the law of Bosnia and Herzegovina, or contrary to their prohibition, broadcasts, reproduces directly or indirectly their sound recording, distributes, rents, imports, brings across the state border or makes available to the public the sound recording without authorisation, shall be fined or punished by imprisonment for a term not exceeding one year.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, without the authorisation of the holder of the rights pertaining to radio broadcast shows, where such authorisation is required under the law of Bosnia and Herzegovina, or contrary to their prohibition, re-broadcasts or records the show, reproduces or distributes the recording of its show.

(3) If the perpetration of the criminal offence referred to in paragraphs 1 and 2 of this Article has resulted in a substantial financial gain or has caused substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by imprisonment for a term of between six months and five years.

(4) The instrumentalities intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article shall be confiscated and destroyed.

Unauthorised Use of Radio Broadcasting Rights

Article 245

- (1) Whoever, without the authorisation of an authorised distributor of an encrypted satellite signal, manufactures, assembles, modifies, imports, exports, sells, rents or otherwise distributes a tangible or intangible device or system for decoding such a signal, knowing or having reason to know that the device or the system serves predominantly for decoding an encrypted satellite signal, shall be fined or punished by imprisonment for a term not exceeding three years.
- (2) If the perpetration of the criminal offence referred to in paragraph 1 of this Article has resulted in a substantial financial gain or has caused substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by imprisonment for a term of between six months and five years.
- (3) The instrumentalities intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraphs 1 and 2 of this Article shall be confiscated and destroyed.

Unauthorised Distribution of Satellite Signals

Article 246

- (1) Whoever receives an encrypted satellite signal that has been decoded without the authorisation of its lawful distributor and further distributes such a signal, knowing or having reason to know that such a signal has been decoded without authorisation, shall be fined or punished by imprisonment for a term not exceeding six months.
- (2) If the perpetration of the criminal offence referred to in paragraph 1 of this Article has resulted in a substantial financial gain or has caused substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be fined or punished by imprisonment for a term not exceeding three years.

CHAPTER XXI

CRIMINAL OFFENCES AGAINST THE ARMED FORCES OF BOSNIA AND HERZEGOVINA

Failure and Refusal to Execute an Order

Article 246a

(1) A military person who fails or refuses to execute an order of a superior given in the line of duty, thus rendering the performance of service duties impossible or more difficult or causing danger to human lives or high-value property,

shall be punished by imprisonment for a term not exceeding five years.

(2) A military person who resists a guard, patrolman, officer on duty or another military person under similar duty while performing their duty, as well as a military person who fails to comply with their call or fails to execute or refuses to execute their order,

shall be fined or punished by imprisonment for a term not exceeding one year.

(3) If the criminal offence referred to in paragraphs 1 and 2 of this Article resulted in extremely serious consequences for military service, the perpetrator shall be punished by imprisonment for a term of between two and eight years.

(4) A military person who perpetrates the criminal offence referred to in paragraph 1 of this Article by negligence, shall be fined or punished by imprisonment for a term not exceeding one year.

(5) The perpetrator of the criminal offence referred to in paragraphs 1, 2 and 4 of this Article who was provoked by the illegal or irregular conduct of the superior, guard, patrolman, officer on duty or another military person, may be punished less severely or relieved of punishment.

Refusal to Accept and Use Arms

Article 246b

A military person who, contrary to regulations and without justified reason, refuses to accept arms or use arms as ordered or pursuant to the rules of service, shall be punished by imprisonment for a term of between one and five years.

Resisting a Superior

Article 246c

(1) A military person who jointly with other military persons offers resistance to an order of a superior given in the line of duty or refuses to execute an order or refuses to discharge his duty, shall be punished by imprisonment for a term of between three months and five years.

(2) If the criminal offence referred to in paragraph 1 of this Article is perpetrated in an organised manner, the perpetrator shall be punished by imprisonment for a term of between two and eight years.

(3) A military person who in the perpetration of the criminal offence referred to in paragraphs 1 and 2 of this Article uses arms, shall be punished by imprisonment for a term of not less than three years.

(4) Whoever organises or directs at any level the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, shall be punished by imprisonment for a term of not less than ten years.

(5) A military superior who participates in the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, shall be punished by imprisonment for a term of not less than ten years.

(6) A military person who in perpetrating the criminal offence referred to in paragraph 3 of this Article deprives another person of life by negligence, shall be punished by imprisonment for a term of not less than three years.

(7) A military person who in perpetrating the criminal offence referred to in paragraphs 1 and 2 of this Article deprives another person of life with intent,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(8) The perpetrator of the criminal offence referred to in paragraph 1 of this Article, who was provoked by the illegal or irregular conduct of the superior, may be punished less severely or relieved of punishment.

Violation of Sentry, Guard, Patrol or Other Similar Duties

Article 246d

(1) A military person who acts contrary to the regulations on sentry, guard, patrol or other specific duties, thus causing serious harmful consequences for the service or seriously imperilling the service,

shall be punished by imprisonment for a term not exceeding three years.

(2) A military person who perpetrates the criminal offence referred to in paragraph 1 of this Article in the vicinity of arms or military equipment depots or depots with explosive substances, or in the vicinity of other important installations,

shall be punished by imprisonment for a term of between three months and three years.

(3) If the criminal offence referred to in paragraphs 1 and 2 of this Article resulted in a serious bodily injury to a person, or caused large-scale material damage, or if other serious consequences occurred, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(4) If the criminal offences referred to in paragraphs 1 and 2 of this Article resulted in the death of a person, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(5) A military person who perpetrates the criminal offence referred to in paragraphs 1 through 4 of this Article by negligence shall be punished as follows:

a) for the criminal offence referred to in paragraph 1 of this Article by imprisonment for a term not exceeding six months;

b) for the criminal offence referred to in paragraph 2 of this Article by imprisonment for a term not exceeding one year;

c) for the criminal offence referred to in paragraph 3 of this Article by imprisonment for a term not exceeding three years;

d) for the criminal offence referred to in paragraph 4 of this Article by imprisonment for a term not exceeding five years.

(6) If the criminal offence referred to in paragraph 5 of this Article resulted in the consequence referred to in paragraph 3 or 4 of this Article, the perpetrator

shall be punished by imprisonment for a term of between three months and five years.

Coercion against a Military Person Discharging Official Duty

Article 246e

(1) Whoever, by force or threat of immediate use of force, prevents a military person in the discharge of official duty, or in the same way coerces a military person to discharge an official duty,

shall be punished by imprisonment for a term not exceeding three years.

(2) Whoever, in the perpetration of the criminal offence referred to in paragraph 1 of this Article, seriously offends a military person, or inflicts a slight bodily injury upon a military person,

shall be punished by imprisonment for a term of between three months and three years.

(3) Whoever in the perpetration of the criminal offence referred to in paragraphs 1 and 2 of this Article uses arms,

shall be punished by imprisonment for a term of between six months and five years.

(4) The perpetrator of the criminal offence referred to in paragraph 1 of this Article, who was provoked by the illegal or irregular conduct of the military person, may be punished less severely or relieved of punishment.

Assault against a Military Person Discharging Official Duty

Article 246f

(1) Whoever attacks or seriously threatens to attack a military person while the military person is discharging his official duty,

shall be punished by imprisonment for a term not exceeding three years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in a slight bodily injury to a military person, or if the criminal offence referred to in paragraph 1 of this Article is perpetrated by the use of arms, the perpetrator

shall be punished by imprisonment for a term of between three months and three years.

(3) If the criminal offence referred to in paragraph 1 of this Article resulted in a serious bodily injury to a military person, or caused serious consequences for the service, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(4) If, in the perpetration of the criminal offence referred to in paragraph 1 of this Article, a military person is deprived of life with intent, the perpetrator

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(5) The perpetrator of the criminal offence referred to in paragraphs 1 and 2 of this Article, who was provoked by the illegal or irregular conduct of the military person, may be punished less severely or relieved of punishment.

Maltreatment of Subordinate or Military Person of Lower Rank

Article 246g

(1) A military superior who in the line of duty or in connection with the duty maltreats a subordinate or a person of lower rank or treats him in a way offensive to human dignity, shall be punished by imprisonment for a term not exceeding three years.

(2) A military superior who perpetrates the criminal offence referred to in paragraph 1 of this Article against multiple persons,

shall be punished by imprisonment for a term not exceeding five years.

Submitting Untrue Reports and Accounts

Article 246h

(1) A military person who in the discharge of official duty or service files a report or gives an account of untrue content, or in his report or account withholds a fact he should not withhold, thus causing serious harmful consequences for the service or seriously imperilling the service, thereby putting at risk human lives or property of great value,

shall be fined or punished by imprisonment for a term not exceeding one year.

(2) If the criminal offence referred to in paragraph 1 of this Article is perpetrated by filing an extremely important report or giving an extremely important account, or if extremely harmful consequences are caused, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(3) Whoever perpetrates the criminal offence referred to in paragraph 2 of this Article by negligence,

shall be fined or punished by imprisonment for a term not exceeding one year.

Failure to Take Measures for the Protection of a Military Unit

Article 246i

(1) A military superior who fails to undertake the prescribed, ordered or other obviously necessary measures for the protection of lives and health of people entrusted to him, for the security and maintenance of installations, facilities and materiel serving combat readiness, for regular supply of his unit with food, equipment or material, for the protection of lives and health of livestock, or for the timely and proper execution of safety works or for the protection of facilities entrusted to him, and thereby causes serious harmful consequences for the service or seriously imperils the service or puts at risk human lives or seriously imperils the health of people or property of great value,

shall be punished by imprisonment for a term of between three months and three years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in a serious bodily injury to a person, or caused large-scale material damage or other serious consequences, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(3) If the criminal offence referred to in paragraph 1 of this Article caused the death of a person or multiple persons, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(4) A military superior who perpetrates the criminal offence referred to in paragraph 1 of this Article by negligence,

shall be fined or punished by imprisonment for a term not exceeding one year.

(5) If the criminal offence referred to in paragraph 4 of this Article resulted in the consequences referred to in paragraph 2 of this Article, the perpetrator

shall be punished by imprisonment for a term not exceeding three years.

(6) If the criminal offence referred to in paragraph 4 of this Article resulted in the consequence referred to in paragraph 3 of this Article, the perpetrator

shall be punished by imprisonment for a term not exceeding five years.

Deficient Protective Measures at Military Exercises

Article 246j

(1) A military person who fails to undertake the prescribed, ordered or obviously necessary safety or precautionary measures during exercises, training courses or in the course of experiments, and thereby puts at risk human lives or seriously imperils the health of people or property of great value,

shall be punished by imprisonment for a term of between three months and three years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in a serious bodily injury to a person, or caused large-scale material damage or other serious consequences, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

(3) If the criminal offence referred to in paragraph 1 of this Article caused the death of a person or multiple persons, the perpetrator

shall be punished by imprisonment for a term of between one and ten years.

(4) A military person who perpetrates the criminal offence referred to in paragraph 1 of this Article by negligence,

shall be fined or punished by imprisonment for a term not exceeding one year.

(5) If the criminal offence referred to in paragraph 4 of this Article resulted in the consequences referred to in paragraph 2 of this Article, the perpetrator

shall be punished by imprisonment for a term not exceeding three years.

(6) If the criminal offence referred to in paragraph 4 of this Article resulted in the consequence referred to in paragraph 3 of this Article, the perpetrator

shall be punished by imprisonment for a term not exceeding five years.

Irregular or Negligent Attitude toward Entrusted Arms or Military Equipment

Article 246k

(1) Whoever irregularly or negligently keeps, stores or handles arms or military equipment entrusted to him, which belong to a military unit or military institution, and thereby causes substantial damage to such items or their destruction or disappearance,

shall be fined or punished by imprisonment for a term not exceeding one year.

(2) The person in charge of a depot of means of combat, arms or military equipment who fails to take measures towards their protection or maintenance, thereby causing substantial damage, destruction or disappearance of such items,

shall be punished by imprisonment for a term of between six months and five years.

(3) If the criminal offence referred to in paragraph 2 of this Article caused extensive damage to property, the perpetrator

shall be punished by imprisonment for a term of between two and eight years.

(4) The person referred to in paragraph 2 of this Article who perpetrates the criminal offence referred to in paragraph 2 of this Article by negligence,

shall be fined or punished by imprisonment for a term not exceeding three years.

(5) If the criminal offence referred to in paragraph 4 of this Article resulted in the consequence referred to in paragraph 3 of this Article, the perpetrator

shall be punished by imprisonment for a term of between three months and three years.

Illegal Disposition of Entrusted Arms or Military Equipment

Article 246l

Whoever illegally misappropriates, alienates, pledges, gives for use to another person, damages or destroys the arms or military equipment entrusted to him, which serve the needs of defence,

shall be punished by imprisonment for a term of between six months and five years.

Theft of Arms or Military Equipment

Article 246m

(1) Whoever misappropriates arms or military equipment or part of means of combat serving the needs of defence with the aim of acquiring, by such misappropriation, unlawful material gain for himself or for anyone else,

shall be punished by imprisonment for a term of between six months and five years.

(2) The punishment of imprisonment for a term of between one and ten years shall be imposed on whoever perpetrates the criminal offence referred to in paragraph 1 of this Article:

a) by breaking in, entering by force or otherwise overcoming major obstacles in order to come to property within a closed building, room, cash register, closet, safe or other closed premises or space; or

b) as a member of a group of persons who have joined together for the purpose of perpetrating the theft; or

- c) in a particularly dangerous or brazen manner; or
- d) by carrying a weapon or dangerous instrument for attack or defence; or
- e) by taking advantage of conditions caused by a fire, flood, earthquake or another calamity; or
- f) in respect of an object of great value, if the perpetrator acts with the aim of acquiring material gain of such value.

Trespassing on Military Installations and Unauthorised Making of Sketches or Drawings of Military Installations or Means of Combat

Article 246n

(1) Whoever, for the purpose of reconnaissance, enters a military installation without authorisation, despite knowing that access is forbidden,

shall be fined or punished by imprisonment for a term not exceeding one year.

(2) Whoever, without authorisation, makes sketches or drawings or takes photographs of military installations or means of combat or records them otherwise,

shall be punished by imprisonment for a term of between three months and three years.

Arbitrary Abandonment and Desertion of a Military Unit or Service

Article 246o

(1) A military person who without leave abandons his unit or service and fails to return to duty within the time-limit of ten days, or fails to return to duty from an authorised furlough from the unit or service within the same time-limit,

shall be fined or punished by imprisonment for a term not exceeding one year.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on a military person who without leave stays outside his unit or service more than twice for a period shorter than ten days, and on a military person who arbitrarily leaves his unit or service at the time of executing an important task or when his unit is at a higher level of combat readiness.

(3) A military person who hides in order to evade military service, or who arbitrarily leaves his unit or service and fails to return to his duty within the time-limit of thirty days, or within the same time-limit fails to return from an authorised furlough from the unit or service,

shall be punished by imprisonment for a term of between six months and five years.

(4) A military person who leaves the country or remains abroad in order to evade military service in the Armed Forces of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of not less than three years.

(5) A military person who prepares to escape abroad in order to evade military service in the Armed Forces of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of between three months and three years.

(6) The perpetrator of the criminal offence referred to in paragraph 1 of this Article, who voluntarily reports to a competent body, may be punished less severely or relieved of punishment.

(7) The perpetrator of the criminal offence referred to in paragraphs 3 and 4 of this Article, who voluntarily reports to a competent body, may be punished less severely.

Punishment for Criminal Offences Perpetrated during the State of War or the State of Emergency or under an Order for the Engagement and Deployment of the Armed Forces of Bosnia and Herzegovina

Article 246p

(1) Whoever perpetrates the criminal offence referred to in Article 246a (Failure and Refusal to Execute an Order), paragraph 2; Article 246b (Refusal to Receive and Use Arms); Article 246c (Resisting a Superior), paragraph 1; Article 246d (Violation of Sentry, Guard, Patrol or Other Similar Duties), paragraphs 1, 2 and 5; Article 246e (Coercion against Military Person Discharging Official Duty), paragraphs 1 and 2; Article 246f (Assault against Military Person Discharging Official Duty), paragraphs 1 and 2; Article 246g (Maltreatment of a Subordinate or a Military Person of Lower Rank); Article 246h (Submitting Untrue Reports and Accounts); Article 246i (Failure to Take Measures for the Protection of Military Unit), paragraphs 1, 4, 5 and 6; Article 246j (Deficient Protective Measures at Military Exercises), paragraphs 1, 4, 5 and 6; Article 246k (Irregular or Negligent Attitude toward Entrusted Arms or Military Equipment), paragraphs 1, 4 and 5; Article 246n (Trespassing on Military Installations and Unauthorised Making of Sketches or Drawings of Military Installations or Means of Combat) and Article 246o (Arbitrary Abandonment and Desertion of a Military Unit or Service), paragraphs 1 and 2 of this Code during the state of war or the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued,

shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever perpetrates the criminal offence referred to in Article 246d, paragraphs 3 and 6; Article 246e, paragraph 3; Article 246f, paragraph 3; Article 246i, paragraphs 2 and 3; Article 246j, paragraphs 2 and 3; Article 246k, paragraphs 2 and 3; Article 246l (Illegal Disposition of Entrusted Arms or Military Equipment); Article 246m (Theft of Arms or Military Equipment), paragraph 1, and Article 246o, paragraphs 3 and 5, of this Code during the state of war or the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued,

shall be punished by imprisonment for a term of not less than three years.

(3) Whoever perpetrates the criminal offence referred to in Article 246a, paragraph 1 and 3; Article 246b, paragraph 1; Article 246c, paragraphs 2, 3 and 4; Article 246d, paragraph 4; Article 246f, paragraph 4; Article 246m, paragraph 2, and Article 246o, paragraph 4, of this Code during the state of war or the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued,

shall be punished by imprisonment for a term of not less than five years or a long-term imprisonment.

Joining the Enemy and Surrender to the Enemy

Article 246r

(1) A military person who joins an enemy army during the state of war or the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued,

shall be punished by imprisonment for a term of not less than five years.

(2) A military person who, before all means and ways have been exhausted, surrenders to an enemy army during the state of war or the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued,

shall be punished by imprisonment for a term of between one and ten years.

Failure to Discharge Duties during Combat

Article 246s

(1) A military person who fails to discharge his duty during combat or immediately before combat and thereby causes serious consequences for the military unit, security operation or combat situation,

shall be punished by imprisonment for a term of between one and ten years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in extremely serious consequences, the perpetrator

shall be punished by imprisonment for a term of between five and fifteen years.

Abandoning Duty during Combat without Leave

Article 246t

(1) A military person who without leave abandons his duty during combat or immediately before combat,

shall be punished by imprisonment for a term of between one and ten years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in extremely serious consequences, the perpetrator

shall be punished by imprisonment for a term of between five and fifteen years.

Abandoning Post in Contravention of Order

Article 246u

(1) A superior military person who, in contravention of an order, abandons the post with the unit he is in charge of before all means of defence have been exhausted,

shall be punished by imprisonment for a term of between one and ten years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in extremely serious consequences, the perpetrator

shall be punished by imprisonment for a term of between five and fifteen years.

Abandoning Damaged Vessel or Aircraft Prematurely

Article 246v

(1) A commander of a combat vessel who, during the state of war or an imminent threat of war or during the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued, abandons the damaged vessel before he has carried out his duty pursuant to the regulations on service on vessels,

shall be punished by imprisonment for a term of between one and ten years.

(2) A crew member of a combat vessel, who during the state of war or an imminent threat of war or during the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued, abandons the damaged vessel before the commander of the vessel gave the order to abandon the vessel, or a crew member of a military aircraft who during the time of war abandons the damaged aircraft,

shall be punished by imprisonment for a term of between one and eight years.

(3) If the criminal offence referred to in paragraphs 1 and 2 of this Article resulted in extremely serious consequences, the perpetrator shall be punished as follows:

a) for the criminal offence referred to in paragraph 1 of this Article by imprisonment for a term of between five and fifteen years;

b) for the criminal offence referred to in paragraph 2 of this Article by imprisonment for a term of between two and ten years.

Leaving Undamaged Means of Combat to Enemy

Article 246z

(1) A military person who allows a substantially undamaged military depot, vessel, aircraft, tank or some other means of combat to fall into enemy hands,

shall be punished by imprisonment for a term of between one and ten years.

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever, contrary to orders, allows the substantially undamaged facilities or other installations of great importance for the defence of the State to fall into enemy hands.

(3) Whoever perpetrates the criminal offence referred to in paragraphs 1 and 2 of this Article by negligence,

shall be punished by imprisonment for a term not exceeding three years.

Undermining Combat Readiness and Combat Situation

Article 246g

(1) Whoever, during combat or immediately before combat, undermines combat readiness within the unit or damages combat situation by giving rise to discontent among soldiers, spreading disturbing news, deserting, throwing away arms or ammunition or by spreading fear or in some other way,

shall be punished by imprisonment for a term of between two and twelve years.

(2) A senior military person who fails to take necessary steps against a subordinate or military person of a lower rank who, during combat or immediately before combat, undermines combat readiness within the unit or damages combat situation by spreading disturbing news, creating disorder and confusion in the unit or in some other way,

shall be punished by imprisonment for a term of between one and five years.

(3) If the criminal offence referred to in paragraphs 1 and 2 of this Article resulted in extremely serious consequences, the perpetrator

shall be punished by imprisonment for a term of not less than five years.

Failure to Secure a Military Unit

Article 246x

(1) A military person who during the state of war or the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued fails to secure the unit he is in charge of and thereby causes serious consequences for the unit,

shall be punished by imprisonment for a term of between two and twelve years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in extremely serious consequences for the unit, the perpetrator

shall be punished by imprisonment for a term of between five and fifteen years.

(3) A military person who perpetrates the criminal offence referred to in paragraph 1 of this Article by negligence,

shall be punished by imprisonment for a term of between three months and three years.

(4) If the criminal offence referred to in paragraph 3 of this Article resulted in the consequence referred to in paragraph 2 of this Article, the perpetrator

shall be punished by imprisonment for a term of between six months and five years.

Failure to Inform Military Authorities

Article 246y

(1) Whoever during the state of war or the state of emergency or when an order for the engagement and deployment of the Armed Forces of Bosnia and Herzegovina has been issued fails to inform the superior or senior officer or headquarters about an incident that manifestly requires military action without delay,

shall be punished by imprisonment for a term not exceeding two years.

(2) If the criminal offence referred to in paragraph 1 of this Article resulted in extremely serious consequences, the perpetrator

shall be punished by imprisonment for a term of between one and eight years.

Imposing Disciplinary Penalty or Disciplinary Measure

Article 246w

For a criminal offence against the Armed Forces of Bosnia and Herzegovina prescribed in this

Chapter of this Code which carries a punishment of imprisonment for a term not exceeding three years, a disciplinary penalty or a disciplinary measure determined by regulations on disciplinary responsibility in the Armed Forces of Bosnia and Herzegovina may be imposed on a military person instead of a criminal sanction, provided that the offence is of a particularly light character and that interests of the service so require.

Responsibility for Criminal Offences Perpetrated on Superior's Orders

Article 246ww

There shall be no criminal offence if its legal elements are satisfied by a subordinate pursuant to an order from his superior if such order was given in the line of official duty, except if such an order relates to the perpetration of genocide, war crimes, crimes against humanity or another criminal offence carrying a punishment of imprisonment for a term of ten years or a more severe punishment, or if it is obvious that by executing such an order a criminal offence would be perpetrated.

C H A P T E R XXII

CONSPIRACY, PREPARATION, ASSOCIATION AND ORGANISED CRIME

Conspiracy to Perpetrate Criminal Offence

Article 247

Whoever agrees with another to perpetrate a criminal offence prescribed by the law of Bosnia and Herzegovina, which carries a punishment of imprisonment of three years or a more severe punishment, unless a heavier punishment is foreseen for conspiracy to commit a particular criminal offence,

shall be fined or punished by imprisonment for a term not exceeding one year.

Preparation of Criminal Offences

Article 248

Whoever procures or prepares means or removes obstacles or engages in any other activity that creates conditions for a direct perpetration, but is not a substantive part of the act of perpetration, of a criminal offence prescribed by the law of Bosnia and Herzegovina, which carries a punishment of imprisonment of three years or a more severe punishment, unless a heavier punishment is foreseen for preparation of a particular criminal offence,

shall be fined or punished by imprisonment for a term not exceeding three years.

Associating for the Purpose of Perpetrating Criminal Offences

Article 249

(1) Whoever organises or at any level directs a group of people or otherwise associates three or more persons with the aim of perpetrating criminal offences prescribed by the law of Bosnia and Herzegovina, unless a heavier punishment is foreseen for such organising or associating for the purpose of perpetrating a particular criminal offence,

shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever becomes a member of the group of people or an association referred to in paragraph 1 of this Article,

shall be fined or punished by imprisonment for a term not exceeding three years.

(3) A member of the group who exposes such a group or a member of the association who exposes such an association prior to his having perpetrated a criminal offence within their ranks or for their account,

may be relieved of punishment.

(4) The organiser who prevents the perpetration of the criminal offences referred to in paragraph 1 of this Article by exposing the group or association or otherwise,

shall be fined or punished by imprisonment for a term not exceeding one year,

but may also be relieved of punishment.

Organised Crime

Article 250

(1) Whoever perpetrates a criminal offence prescribed by the law of Bosnia and Herzegovina as a member of a group for organised crime, unless a heavier punishment is foreseen for the particular criminal offence,

shall be punished by imprisonment for a term of not less than three years.

(2) Whoever as a member of a group for organised crime perpetrates a criminal offence prescribed by the law of Bosnia and Herzegovina, which carries a punishment of imprisonment of five years or a more severe punishment, unless a heavier punishment is foreseen for the particular criminal offence,

shall be punished by imprisonment for a term of not less than five years.

(3) Whoever organises or at any level directs a group for organised crime which by joint action perpetrates or attempts to perpetrate a criminal offence prescribed by the law of Bosnia and Herzegovina,

shall be punished by imprisonment for a term of not less than ten years or a long-term imprisonment.

(4) Whoever becomes a member of a group for organised crime which by joint action perpetrates or attempts to perpetrate a criminal offence prescribed by the law of Bosnia and Herzegovina, unless a heavier punishment is foreseen for the particular criminal offence,

shall be punished by imprisonment for a term of not less than one year.

(5) A member of the group for organised crime referred to in paragraphs 1 through 4 of this Article, who exposes the group,

may be relieved of punishment.

CHAPTER XXIII
TRANSITIONAL AND FINAL PROVISIONS

Execution of Criminal Sanctions

Article 251

The Ministry of Justice of Bosnia and Herzegovina and the competent ministry in each Entity or the competent body in the Brčko District of Bosnia and Herzegovina shall reach an agreement regarding the execution of criminal sanctions in the institutions under the competence of the Entities or the District within three months of the entry into force of this Code.

Entry into Force

Article 252

This Code shall enter into force on 1 March 2003.