

UNOFFICIAL CONSOLIDATED TEXT

Amendments to CC BiH published in the OG BiH 8/10 are underlined and ~~doublestrickethrough~~. Other amendments are indicated in footnotes

**THE CRIMINAL CODE  
OF BOSNIA AND HERZEGOVINA**

**GENERAL PART**

**I C H A P T E R   O N E**

**MEANING OF TERMS AS USED IN THIS CODE**

**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 over them.~~

~~(3) An official person means: a person elected or appointed to legislative, executive and judicial office within Bosnia and Herzegovina and other governmental and administrative institutions or services which perform particular administrative, expert and other duties, within the rights and liabilities of the authority who has founded them; a person who continuously or occasionally executes official duty in the mentioned administrative bodies or institutions, an authorised person in a business enterprise or other legal person who has been legally entrusted with the execution of public authorities, who performs certain duties within the frame of the said authority; and other persons who are performing official duties stipulated by law or other regulations based on the law.~~

~~(4) When an official person has been indicated as the perpetrator of a particular criminal offence, persons referred to in paragraph 3 of this Article may be considered the perpetrators of such offences provided that it does not follow from the characteristics of a particular criminal offence or particular prescript that their perpetrator may only be one of the specified persons.~~

~~(5) A responsible person means a person in a business enterprise or other legal person 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 based on law or general act of a business enterprise or other legal person in managing and administrating the property, or is related to managing a productive or other economic process or supervision of such process. Official persons as defined in paragraph 3 of this Article are also considered responsible persons when the actions as whose perpetrator the responsible person has been indicated are at issue, and at the same time are not stipulated as criminal offence by provision of the chapter dealing with criminal offences against official and other responsible duty, or as criminal offences of an official person stipulated under some other chapter of this Code or other laws of Bosnia and Herzegovina.~~

~~(6) In cases when an official or responsible person has been indicated as the perpetrator of a criminal offence, all persons mentioned in paragraphs 3 and 5 of this Article may be the perpetrators of such offence provided that it does not follow from the characteristics 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 foreign state, a public official person of an international organisation or of its bodies, judge or other official person of an international court, serving in Bosnia and Herzegovina.~~

~~(8) A military person, for the purpose of this Code, means a member of professional military personnel, a cadet at a military school and a member of reserve personnel as referred to in the law on service in the armed forces of Bosnia and Herzegovina, as well as civil servant and employee in service in the armed forces and civil servant and employee exercising official duty within the chain of command and control over the armed forces of Bosnia and Herzegovina, including the Deputy Ministers of Defence.~~

~~(9) When an official person is designated as the person against whom a criminal offence has been perpetrated, an official person within the meaning of this Code shall, in addition to persons specified in paragraph 3 of this Article, also be a military person referred to in paragraph 8 of this Article.<sup>1</sup>~~

~~(10) A child, as referred to in this Code, is a person who has not reached fourteen years of age.~~

~~(11) A juvenile, as referred to in this Code, is a person who has not reached eighteen years of age.~~

~~(12) A legal person, as referred to in this Code, stands for Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the 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 co-operating enterprises, institutions, crediting and other banking institutions or insurance of property and persons institutions, as well as other financial institutions, funds, political organisations and associations of citizens or other associations that may acquire funds and use them in the same way as other institutions or bodies that acquire and use funds and that are legally recognised as legal persons.~~

~~(13) A business enterprise, for the purpose of this Code, means corporations, companies, firms, partnerships and any other organizational form registered for performing economic activities.~~

~~(14) An association means any kind of associating three or more people.~~

~~(15) Several persons mean at least two persons or more.~~

~~(16) A body of people constitutes at least five persons or more.~~

~~(17) A group of people is an assemblage of at least three individuals that are associated for the purpose of habitual, recidivist, or occasional perpetration of criminal offences, while each of the individuals gives his contribution or has his part in the perpetration of the criminal offence.~~

~~(18) A Structured group is a group that is formed, not at random, for the immediate perpetration of an offence and that does not need to have formally defined roles for its members, continuity of its membership, or a developed structure.~~

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<sup>1</sup> OG BiH 53/06

~~(19) — *Organised criminal group* is a structured group of at least three or more persons, existing for a period of time and acting in concert with the aim of perpetrating one or more criminal offences for which a punishment of imprisonment of three years or a more severe punishment may be imposed under the laws of Bosnia and Herzegovina.~~

~~(20) — A *state secret* is construed as to include information or documents that have been designated as secret by virtue of a law, some other regulation or general enactment of the competent body made on the basis of the law, and disclosure of which would cause detrimental consequences for national security or national interests of Bosnia and Herzegovina.<sup>2</sup>~~

~~(21) — A *military secret* is construed as to include information or documents that have been designated as a military secret by virtue of a law of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina or the Republika Srpska, by virtue of a regulation of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina or the Republika Srpska, or by virtue of an enactment of a competent body of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina or the Republika Srpska that is enacted in compliance with the law.~~

~~(22) — *Secret data* means a fact or instrument which contains information pertaining to the areas of public security, defence, foreign affairs and interests, intelligence and security activities or interests of Bosnia and Herzegovina, communication and other systems important for state interests, judiciary, projects and plans significant for defence and intelligence security activities, scientific, research, technological, economic and financial business significant for the safety and proper functioning of the institutions of Bosnia and Herzegovina or security structures at all levels of the state organisation of Bosnia and Herzegovina which is designated as secret by virtue of a law, other regulation or general enactment of the competent body made on the basis of the law, or which is classified pursuant to the provisions of the law and regulations on protection of secret data. The term also includes secret data of another state, international or regional organisation.<sup>3</sup>~~

~~(23) — A *document* denotes any object that is suitable or designed to serve as evidence of some fact relevant to legal relations.~~

~~(24) — *Money* denotes coins and paper bank notes, which are legal tender in Bosnia and Herzegovina or in a foreign country.~~

~~(25) — *Instruments of value* also include foreign instruments of value.~~

~~(26) — A *movable object* also includes any manufactured or accumulated energy used for producing light, heat or movement, and telephone and other impulses.~~

~~(27) — A *motor vehicle* is construed as to include every engine run means for land, water and air traffic.~~

~~(28) — *Force* also includes the use of hypnotic suggestion or the use of intoxicating substances for the purpose of bringing a person against his will into a state of unconsciousness, or incapacity for resistance.~~

~~(29) — *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 that it is subject to control under the international convention ratified by Bosnia and~~

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<sup>2</sup> OG BiH 53/06

<sup>3</sup> OG BiH 53/06

~~Herzegovina, or any substances declared as narcotic drugs by a competent institution of Bosnia and Herzegovina or by a competent institution of the entities.~~<sup>4</sup>

~~(30) *Arms and military equipment* mean items listed in the most recent "common list of military equipment" as referred to in the laws on manufacture, import and export of arms and military equipment.~~<sup>5</sup>

~~(31) *International criminal tribunal* means the International Criminal Tribunal for Former Yugoslavia.~~

~~(32) *Grammatical gender terminology, male or female, is to be understood as including both genders of natural persons.*~~

(1) *The criminal legislation* of Bosnia and Herzegovina comprises the criminal justice provisions set forth in this Code and provisions 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 other governmental and administrative institutions or services which perform particular administrative, expert and other duties, within the rights and responsibilities of the authority who has founded them; a person who continuously or occasionally executes official duty in the mentioned administrative bodies or institutions; an authorized person in a business enterprise or another legal person who has been legally entrusted with the execution of public authorities, who performs certain duties within the scope of the relevant authority; and other persons who are performing, with or without remuneration, official duties stipulated by law or other regulations based on the law or other regulations originating from the Law.

(4) When an official person has been indicated as the perpetrator of a particular criminal offence, persons referred to in paragraph (3) of this Article may be considered the perpetrators of such offences provided that it does not follow from the characteristics of a particular criminal offence or particular prescript that their perpetrator may only be one of the specified persons.

(5) *A responsible person* means a person in a business enterprise or other legal person who, in the line of duty or on the basis of specific authorization, has been entrusted with a portfolio related to the implementation of law or regulations based on law or general act of a business enterprise or other legal person in managing and administrating the property, or is related to managing a productive or other business process or supervision of such process. Official persons as defined in paragraph (3) of this Article are also considered responsible persons when the actions as whose perpetrator the responsible person has been indicated are at issue, and at the same time are not stipulated as criminal offence by provision of the chapter dealing with criminal offences against official and other responsible duty, or as criminal offences of an official person stipulated under some other chapter of this Code or other laws of Bosnia and Herzegovina.

(6) In cases when an official or responsible person has been indicated as the perpetrator of a criminal offence, all persons referred to in paragraphs (3) and (5) of this Article may be the

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<sup>4</sup> OG BiH 55/06

<sup>5</sup> OG BiH 53/06

perpetrators of such offences, provided that it does not follow from the characteristics 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 person of an international organization or of its bodies, judge or other official person of an international court, serving in Bosnia and Herzegovina with or without remuneration.

(8) An international official person means a civilian employee of an international organization or agency.

(9) A military person, for the purpose of this Code, means a member of professional military personnel, and a member of reserve personnel for the duration of their service in the Armed Forces of Bosnia and Herzegovina, in accordance with the Law on Service in the Armed Forces of Bosnia and Herzegovina.

(10) When an official person is identified as the person against whom a criminal offence has been perpetrated, the official person shall also be, for the purpose of this Code, in addition to persons specified in paragraph (3) of this Article, a military person referred to in paragraph (9) of this Article.

(11) A child, for the purpose of this Code, is a person who has not reached fourteen years of age.

(12) A juvenile, for the purpose of this Code, is a person who has not reached eighteen years of age.

(13) A legal person, for the purpose of this Code, stands for Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, the Brčko District of Bosnia and Herzegovina, canton, city, municipality, local community, any organizational form of a business enterprise and all forms of co-operating enterprises, institutions, crediting and other banking institutions or insurance of property and persons institutions, as well as other financial institutions, funds, political organizations and associations of citizens or other forms of associations that may acquire funds and use them in the same way as other institutions or bodies that acquire and use funds and that are legally recognized as legal persons.

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

(15) An association means any kind of associating three or more people.

(16) Several persons mean at least two persons.

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

(18) A group of people is an assemblage of at least three individuals that are associated for the purpose of perpetration of criminal offences, in which each of the individuals gives his contribution to the perpetration of the criminal offence

(19) An organized group is a group that is formed for the purpose of direct perpetration of an offence and that does not need to have formally defined roles of its members, the continuity of its membership, or a developed structure.

(20) An organized criminal group is a group of three or more persons, existing over a certain period of time and acting in concert with the aim of perpetrating one or more criminal offences which carry a punishment of imprisonment of over three years or more severe punishment, for the purpose of material gain.

(21) A terrorist group is an organized group of at least three persons that is formed and operates over a certain period of time with the aim of perpetrating a criminal act of terrorism.

(22) Secret data means an information pertaining to the areas of public security, defense, foreign affairs and interests, intelligence and security activities or interests of Bosnia and Herzegovina, communication and other systems important for state interests, judiciary, projects and plans significant for defense and intelligence-security activities, scientific, research, technological, economic and financial business significant for the safe functioning of the institutions of Bosnia and Herzegovina or security structures at all levels of the state organization of Bosnia and Herzegovina which is designated as secret by virtue of a law, other regulation or general enactment of the competent body made on the basis of the law, or which is classified pursuant to the provisions of the law and regulations on protection of secret data. The term also includes secret data of another state, international or regional organization.

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

(24) Money denotes coins and paper bank notes, which are legal tender in Bosnia and Herzegovina or in a foreign country.

(25) Instruments of value also include foreign instruments of value.

(26) A movable object also includes any manufactured or accumulated energy used for producing light, heat or movement, and telephone and other impulses.

(27) A mean of transport is every vessel, vehicle or aircraft, as well as any other mean that may be used in land, water and air traffic regardless of type of propulsion.

(28) Force also includes the use of hypnotic suggestion or the use of intoxicating substances for the purpose of bringing a person against his will into a state of unconsciousness, or incapacity for resistance.

(29) 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 that it is subject to control under the international convention ratified by Bosnia and Herzegovina, or any substances declared as narcotic drugs by a competent institution of Bosnia and Herzegovina or by a competent institution of the entities.

(30) Arms and military equipment mean items and means referred to in the Law on Manufacture, Import and Export of Arms and Military Equipment.

(31) Radioactive material means nuclear material and other radioactive substances with spontaneously decomposing nuclides (a process which releases one or several types of ionizing emissions such as alpha and beta emissions, neutron particles and gamma rays), which due to their radiological and fissile features can cause death, serious injuries or extensive property and environmental damage.

(32) Nuclear material means plutonium, save for the one with isotope concentration of more than 80 % in plutonium 238 or uranium 233; uranium enriched with isotope 235 or 233; uranium which contains a mixture of isotopes as found in nature, save in the form of ore or ore residue; or any other material which contains one or several of the aforementioned, where "uranium enriched with isotopes 235 or 233" means uranium which contains isotope 235 or 233 or both in such amount that the ratio between the sum of these isotopes and isotope 238 is greater than the ratio between isotope 235 and 238 found in nature.

(33) A nuclear device means every nuclear explosive device or any device that disperses radioactive material or produces emissions that can, due to their radiological qualities, cause death, serious injuries or damage to property and environment of significant proportions.

(34) A nuclear facility means every nuclear reactor, including reactors mounted on vessels, vehicles, aircrafts or space facilities used as energy source for those vessels, vehicles, aircrafts or



space facilities or for any other purposes, and every plant or instrument used for production, storing, processing or transport of radioactive material.

(35) Fixed platform is an artificial island, instrument or device that is fixed to the sea floor for the purposes of research or exploitation of natural resources or other commercial purposes.

(36) An explosive device means:

a) Explosive or incendiary weapon or device which has been assembled so that it can cause death, serious injuries or extensive property damage; or

b) Weapon or device which has been assembled so that it can cause death, serious injuries or significant damage by releasing, dispersion and effect of poisonous chemicals, biological agents or poisons or similar substances or radiation or radioactive material.

(37) Holocaust means a crime of genocide or crimes against humanity committed by the German Nazi Regime during the World War II recognized as such by final and binding decisions or judgments of the International Military Tribunal established under the London Treaty of 8 August 1945.

(38) A mass grave means an unmarked spot where two or more bodies or human remains are buried or a spot where such bodies or human remains have been subsequently relocated as a result of the perpetration of the criminal offences specified in Article 171 through 180 of this Code.

(39) Grammatical gender terminology, male or female, is to be understood as including both genders of natural persons.

## II CHAPTER TWO

### 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 with the degree and nature 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 other criminal sanction 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 a punishment has not been prescribed by law.

### **Principle of Guilt** **Article 3a**

No one can be punished or subjected to other criminal sanctions if he is not 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 be applied.

### **Trial and punishment for criminal offences pursuant to the general principles of international law** **Article 4a<sup>6</sup>**

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 correctional measures.

### **Purpose of Criminal Sanctions** **Article 6**

~~The purpose of criminal sanctions is:~~

- ~~a) A preventive influence on others to honour the legal system and not to perpetrate a criminal offence;~~
- ~~b) Preventing perpetrators from perpetrating criminal offences and encouraging their rehabilitation.~~

The purpose of legal sanctions for criminal acts is:

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<sup>6</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in “Official Gazette of BiH” no. 61/04 on 29 December 2004, entered into force on 6 January 2005:

“Article 2

After Article 4, a new Article 4a shall be added, which shall read:  
‘Trial and punishment ...’ “



- a) Protection of the society from criminal acts through preventive influence on others to respect the legal system and do not commit criminal acts, as well as by preventing perpetrators to commit criminal acts and encouraging of their reformation;
- b) Protection and satisfaction of victims of criminal offences.

## **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 international law~~ in compliance with the law and the international law.

## **III CHAPTER THREE**

### **APPLICATION OF CRIMINAL JURISDICTION OF BOSNIA AND HERZEGOVINA**

#### ~~**Exclusion of Applying Criminal Legislation of Bosnia and Herzegovina to Children**~~

#### ~~**Article 8**~~

~~Criminal legislation of Bosnia and Herzegovina shall not be applied to a child who, at the time of perpetrating a criminal offence, had not reached fourteen years of age.~~

#### ~~**Applicability of Criminal Legislation of Bosnia and Herzegovina to Juveniles**~~

#### ~~**Article 9**~~

~~The criminal legislation of Bosnia and Herzegovina shall be applied to juveniles pursuant to Chapter X (*Rules Relating to Correctional Recommendations, Correctional Measures and Punishing Juveniles*) of this Code and other laws of Bosnia and Herzegovina.~~

#### ~~**Applicability of Criminal Legislation of Bosnia and Herzegovina to Legal Persons**~~

#### ~~**Article 10**~~

~~The criminal legislation of Bosnia and Herzegovina shall be applied to legal persons pursuant to Chapter XIV (*Liability of Legal Persons for Criminal Offences*) of this Code and other laws of Bosnia and Herzegovina.~~

#### ~~**Applicability of Criminal Legislation of Bosnia and Herzegovina to Those Perpetrating a Criminal offence within the Territory of Bosnia and Herzegovina**~~

#### ~~**Article 11**~~

- ~~(1) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who perpetrates 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 in flight, or aboard a domestic military aircraft, regardless of its location at the time of perpetration of the offence.~~

~~**Applicability of the Criminal Legislation of Bosnia and Herzegovina to Offences  
Perpetrated outside the Territory of Bosnia and Herzegovina  
Article 12**~~

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

- ~~a) Any criminal offence against the integrity of Bosnia and Herzegovina prescribed in Chapter Sixteen (*Criminal Offences against The Integrity of Bosnia and Herzegovina*) of this Code;~~
- ~~b) The criminal offence of counterfeiting of money or of counterfeiting of securities of Bosnia and Herzegovina, the criminal offence of counterfeiting of instruments of value or of forgery of trademarks, measures and weights issued on the basis of regulations made by 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, related to his duty.~~

~~(2) The criminal legislation of Bosnia and Herzegovina shall be applied to a citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence other than those specified in paragraph 1 of this Article.~~

~~(3) The criminal legislation of Bosnia and Herzegovina shall be applied to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence against Bosnia and Herzegovina or its citizen which is not specified in paragraph 1 of this Article.~~

~~(4) The criminal legislation of Bosnia and Herzegovina shall be applied to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against a foreign state or non-citizen of Bosnia and Herzegovina a criminal offence for which, under the law in force in the place of perpetration of a criminal offence, a punishment of imprisonment for a term of five years or a more severe punishment may be imposed.~~

~~(5) In the cases referred to in paragraphs 2 and 3 of this Article, the criminal legislation of Bosnia and Herzegovina shall be applied only if the perpetrator of the criminal offence is found within the territory of Bosnia and Herzegovina, or has been extradited to it, while in the case referred to in paragraph 4 of this Article, only if the perpetrator is found within the territory of Bosnia and Herzegovina and is not extradited to another state.~~

**Applicability of criminal legislation of Bosnia and Herzegovina to those perpetrating a criminal offence 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 in flight, or aboard a domestic military aircraft, regardless of its location at the time of perpetration of the offence.

**Applicability of the criminal legislation of Bosnia and Herzegovina to offences perpetrated 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, perpetrates:

- a) Any criminal offence against the integrity of Bosnia and Herzegovina prescribed in Chapter Sixteen of this Code (*Criminal Offences against the Integrity of Bosnia and Herzegovina*);
- b) The criminal offence of Counterfeiting of Money or of Counterfeiting of Securities of Bosnia and Herzegovina, the criminal offence of Counterfeiting of Instruments of Value or Forgery of Trademarks, Measures and Weights issued on the basis of regulations enacted by the institutions of Bosnia and Herzegovina, set forth 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, related to his duty.

(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 a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against Bosnia and Herzegovina or its citizen any criminal offence not included in paragraph (1) of this Article.

(4) The criminal legislation of Bosnia and Herzegovina shall apply to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against a foreign state or a non-citizen of Bosnia and Herzegovina a criminal offence which, under the law in force in the place of perpetration of the criminal offence, 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 within the territory of Bosnia and Herzegovina, or has been extradited to it, while in the case referred to in paragraph (4) of this Article, only if the perpetrator is found within 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 of this Code (*Rules Relating to Educational Recommendations, Educational Measures and Punishment of Juveniles*) and other laws of Bosnia and Herzegovina.

### **Applicability of criminal legislation of Bosnia and Herzegovina to legal persons**

#### **Article 11**

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

### **Exclusion of applicability of the criminal legislation of Bosnia and Herzegovina to children**

#### **Article 12**

The criminal legislation of Bosnia and Herzegovina shall not be applied 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 provided for by law.
- (3) The provisions of the General part of this Code shall apply to legal persons, unless otherwise provided for in this Code.

## **IV CHAPTER FOUR STATUTE OF LIMITATIONS**

### **Period Set by Statute of Limitation Regarding the Institution of Criminal Prosecution**

#### **Article 14**

- (1) Unless it is stipulated otherwise in 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 for which a punishment of long-term imprisonment is prescribed;
  - b) Twenty years in the case of a criminal offence for which the punishment of imprisonment for a term exceeding ten years is prescribed;
  - c) Fifteen years in the case of a criminal offence for which the punishment of imprisonment for a term exceeding five years is prescribed;
  - d) Ten years in the case of a criminal offence for which the punishment of imprisonment for a term exceeding three years is prescribed;

- e) Five years in the case of a criminal offence for which the punishment of imprisonment for a term exceeding one year is prescribed;
  - f) Three years in the case of a criminal offence for which the punishment of imprisonment for a term not exceeding one year or a fine is prescribed.
- (2) If several punishments are prescribed for a single criminal offence, the period of limitation shall be determined according to the most severe punishment prescribed.

### **Running and Interruption of the Period Set by Statute of Limitation Regarding the Institution of Criminal Prosecution**

#### **Article 15**

- (1) The running of the period set by statute of limitation to institute criminal prosecution commences on the day on which the criminal offence has been perpetrated.
- (2) The running of the period set by statute of limitation is suspended for any time during which the prosecution cannot be instituted or continued by reason of a provision of law.
- (3) The running of the period set by statute of limitation is interrupted by every motion that relates to the prosecution of the perpetrator on account of the criminal offence perpetrated.
- (4) The running of the period set by statute of limitation is also interrupted if the perpetrator, before the period of limitation has elapsed, has perpetrated a new criminal offence of the same gravity or graver.
- (5) After each interruption, the period set by statute of limitation commences anew.
- (6) The period set by statute of limitation to institute criminal prosecution expires in any case when twice as much time lapses as is set by the statute of limitation for the initiation of criminal prosecution.

### **Period Set by Statute of Limitation Regarding the Execution of Punishment**

#### **Article 16**

Unless it is stipulated otherwise in this Code, the imposed sentence shall not be executed when the following time periods have elapsed from the date of entry into force of the judgement by which a punishment has been imposed:

- a) Thirty-five years if a punishment of long-term imprisonment has been imposed;
- b) Twenty years if a 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.

**Period Set by Statute of Limitation 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 entry into force of the judgement whereby such punishment has been imposed.
- (2) The execution of the security measure of mandatory psychiatric treatment and the security measure of forfeiture shall be barred after the lapse of five years from the date of entry into force of the judgement whereby 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.

**The Running and Interruption of the Period Set by Statute of Limitation Regarding the Execution of Punishments and Security Measures**  
**Article 18**

- (1) The running of the period set by statute of limitation to execute the punishment commences on the date of entry into force of the judgement whereby such punishment has been imposed, and in the case of the revocation of a suspended sentence, on the date of entry into force of the decision on the revocation of a suspended sentence.
- (2) The period set by statute of limitation shall not run during the time the punishment cannot be executed pursuant to law.
- (3) The running set by statute of limitation is interrupted with every action of a competent body taken in regard to execution of the punishment.
- (4) After each interruption, the period set by statutes of limitation shall commence anew.
- (5) The period set by statute of limitations to execute the punishment shall expire in any case when twice as much time lapses as is set by the statute of limitation for the execution of punishments.
- (6) The provisions of paragraphs 2 through 5 of this Article shall be applied accordingly to the bar to the execution of the security measures.

**Criminal Offences not subject to the Statute of Limitations**  
**Article 19**

Criminal prosecution and execution of a sentence are not 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.



## **V CHAPTER FIVE 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 Offence Article 21**

- (1) A criminal offence can be perpetrated by an act or an omission to act.
- (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 Offence Article 22**

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

### **Place of Perpetrating Criminal Offence Article 23**

- (1) A criminal offence is perpetrated both at the place perpetrator acts or ought to have acted, and at the place where the consequence of his action or omission to act fully or partially occurs.
- (2) A criminal offence in the case of a punishable attempt is perpetrated both at the place perpetrator acts or ought to have acted, and at the place where the consequence of his action or omission to act fully or partially ought to have occurred according to the perpetrator's expectation.
- (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 acts or ought to have acted, or at the place where the consequence of his action or omission to act ought to have occurred according to the expectation of the accomplice.

### **Insignificant act Article 23a**

An act shall not be a criminal offence although it has elements of a criminal offence defined under the law if, due to its nature and gravity or the manner of its perpetration or the insignificance or non-existence of detrimental consequences and a low degree of culpability of the perpetrator, it constitutes an insignificant act.

## **Necessary Defence (Self-Defence)**

### **Article 24**

- (1) An act committed in necessary defence is not considered a criminal offence.
- (2) A defence is considered to be necessary if it is absolutely necessary for the defender to avert a coinciding or direct and imminent illicit attack from himself or from another, and which is proportionate to the attack.
- (3) If the perpetrator exceeds the limits of necessary defence, the punishment can be reduced, and if the excess occurs due to strong irritation or fright caused by the attack, the punishment can be remitted.

## **Extreme Necessity**

### **Article 25**

- (1) An act committed out of extreme necessity is not 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 act did not exceed the harm threatened.
- (3) If the perpetrator himself has negligently provoked the danger, or he has exceeded the limits of extreme necessity, the court may impose reduced punishment on him, 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 the danger.

## **Force and threat**

### **Article 25a**

- (1) A criminal offence perpetrated under irresistible force shall not constitute a criminal offence.
- (2) A perpetrator who has perpetrated a criminal offence under resistible force or threat may be sentenced to a more lenient punishment.
- (3) In the case specified in paragraph (1) herein, the person who has applied irresistible force shall be considered a perpetrator of the criminal offence.

## **Attempt**

### **Article 26**

- (1) Whoever intentionally commences execution of a criminal offence, but does not complete such offence, shall be punished for the attempted criminal offence when, for the criminal offence in question, the ~~punishment of imprisonment for a term of three years or a more severe punishment~~ three years prison sentence or more severe punishment may be imposed, and for the attempt of another criminal offences when the law expressly prescribes punishment of the attempt alone.
- (2) An attempted criminal offence shall be punished within the limits of the punishment prescribed for the same criminal offence perpetrated, but the punishment may also be reduced.

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### **Inappropriate Attempt Article 27**

If a person tries to perpetrate a criminal offence by inappropriate means or against an inappropriate object may be released from sentencing or punished less severely.

### **Voluntary Abandonment of the Attempt Article 28**

- (1) A perpetrator, who voluntarily abandons the execution of a punishable attempt, may be released from punishment.
- (2) In the event of voluntary abandonment of an attempt, the perpetrator shall be punished for those acts that constitute other separate criminal offences.

### **~~Accomplices~~ Co-perpetration Article 29**

If several 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, 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 such offence.
- (2) Whoever intentionally incites another to perpetrate a criminal offence for which ~~a punishment of imprisonment for a term of three years or a more severe punishment~~ three years prison sentence or more severe punishment is prescribed by law, and the criminal offence has never been attempted, shall be punished as for the attempt of the criminal offence.
- (3) Incitement to commit a criminal offence shall be construed to mean, in particular: pleading, persuading or prompting, portraying benefits of the perpetration of the criminal offence, giving or promising gifts, abusing the state of subordination or dependency, making a person believe in and keeping a person under a mistake of fact or law, deceiving.

### **Accessory Article 31**

- (1) Whoever intentionally helps another to perpetrate a criminal offence shall be punished as if he himself perpetrated such offence, but the punishment may be reduced.
- (2) The following, in particular, shall be considered as helping 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 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, traces of the criminal offence, or goods acquired by perpetration of the criminal offence.

### **Limitations in ~~Responsibility~~ Culpability and Punishability of Collaborators**

#### **Article 32**

- (1) The accomplice shall be considered ~~criminally responsible~~ culpable 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 refrain from imposing a punishment on an accomplice, inciter or accessory that has voluntarily prevented perpetration of the criminal offence.
- (3) The personal relations, characteristics and circumstances to which the law attaches the exclusion of ~~criminal responsibility~~ 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, accomplices, inciters or accessories.

## **VI CHAPTER SIX**

### **~~CRIMINAL RESPONSIBILITY~~ CULPABILITY**

#### **Elements of ~~Criminal Responsibility~~ Culpability**

##### **Article 33**

- ~~(1) A perpetrator who is mentally capable and guilty of perpetrating a criminal offence shall be held criminally responsible.~~
- ~~(2) A perpetrator shall be guilty if he has perpetrated a criminal offence with intent.~~
- ~~(3) A perpetrator shall also be guilty if he has perpetrated a criminal offence out of negligence only if the law explicitly prescribes so.~~
- (1) Culpability exists if at the time of the perpetration of the criminal offence the perpetrator was mentally accountable and acted with intent.
- (2) Culpability for the criminal offence exists even if the perpetrator acted out of negligence only if the law explicitly prescribes so.

#### **Mental Capacity**

##### **Article 34**

- (1) A mentally incapable person is one who, at the time of perpetrating the criminal offence, 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 ~~criminally responsible~~ culpable if, by consuming alcohol or narcotic drugs or otherwise, he brought himself into such 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 ~~criminal responsibility~~ culpability is prescribed by law for such an offence even if perpetrated out of negligence (~~voluntary intoxication~~).

(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 deed but still desired its perpetration.

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

### **Negligence**

#### **Article 36**

(1) A criminal offence may be perpetrated by advertent or inadvertent negligence.

(2) The perpetrator acts with advertent negligence when 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 inadvertent negligence when he was unaware of the possibility 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 person is not criminally responsible if at the time of the perpetration of a criminal offence he was not aware of one of its elements defined by law, or if he has mistakenly believed that circumstances existed which, if they had actually existed, would render such conduct permissible.~~

~~(2) If the person's mistake resulted from his negligence, he shall be criminally responsible for the criminal offence perpetrated by negligence, provided that the criminal offence in question is punished by law when perpetrated by negligence. Fact~~

(1) A person shall not be guilty if he perpetrates an offence while under an irreparable mistake of fact.

(2) The mistake of fact shall be considered irreparable if the perpetrator, at the time of the perpetration of the criminal offence, was not aware of a legally prescribed element of the criminal offence or wrongly believed that there existed circumstances which, if they truly existed, would have made his conduct permissible.

(3) If the perpetrator was under a mistake of fact due to negligence, that shall be considered a criminal offence perpetrated out of negligence only if the law prescribes punishment for that criminal offence committed out of negligence.

### **Mistake of Law Article 38**

A perpetrator of a criminal offence, who had justifiable reason for not knowing that his conduct was prohibited, may be released from punishment.

## **VII CHAPTER SEVEN PUNISHMENT**

### **The Purpose of Punishment Article 39**

The purpose of punishment is:

- a) To express the community's condemnation of a perpetrated criminal offence;
- b) To deter the perpetrator from perpetrating criminal offences in the future and to encourage his reformation;
- c) To deter others from perpetrating criminal offences; and
- d) To increase the consciousness of citizens of the danger of criminal offences and of the fairness of punishing perpetrators.

### **Types of Punishment Article 40**

~~The following punishments may be imposed on perpetrators of criminal offences who are criminally responsible:~~

- ~~a) Imprisonment;~~
- ~~b) Fine.~~

Perpetrator of the criminal offence who has been found guilty may be sentenced to:

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

### **Principal and Accessory Punishment Article 41**

- (1) Imprisonment may be imposed only as 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 that 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 the punishment of imprisonment as the principal punishment.

## **Imprisonment**

### **Article 42**

- ~~(1) Imprisonment may not be shorter than thirty days or longer than twenty years.~~  
~~(2) For the gravest forms of serious criminal offences perpetrated with intent, imprisonment for a term of twenty to forty five years may be exceptionally prescribed (long term imprisonment).~~  
~~(3) Long term imprisonment may never be prescribed as the sole principal punishment for a particular criminal offence.~~  
~~(4) Long term imprisonment cannot be imposed on a perpetrator who has not reached twenty one years of age at the time of perpetrating the criminal offence.~~  
~~(5) Juvenile imprisonment may be imposed under the conditions prescribed by Chapter X (*Rules Relating to Correctional Recommendations, Correctional Measures and Punishing Juveniles*) of this Code. Juvenile imprisonment is in its purpose, nature, duration and manner of execution a special punishment of deprivation of liberty.~~  
~~(6) 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. Long term imprisonment shall be imposed only in full years.~~  
~~(7) If long term imprisonment has been imposed, amnesty or pardon may be granted only after three fifths of the punishment has been served.~~

- (1) Imprisonment may not be shorter than thirty days or longer than twenty years.  
(2) The punishment of imprisonment shall be imposed in full years and months; however, the punishment of imprisonment for a term not exceeding six months may also be meted out in full days.  
(3) Imprisonment referred to in this Article cannot be imposed to the juveniles. Juvenile imprisonment may be imposed under the conditions prescribed by Chapter X of this Code (*Rules Relating to Educational Recommendations, Educational Measures and Punishment of Juveniles*). By its purpose, nature, duration and manner of execution, juvenile imprisonment constitutes a special punishment of deprivation of liberty.

## **Substitution of Imprisonment**

### **Article 42a**

- (1) On request of the convicted person, imprisonment sentence up to one year can be substituted by a fine paid in a single installment within 30 days.  
(2) Imprisonment shall be substituted with a fine in a way that every day of imprisonment equals one daily amount of fine or with KM 100 if the fine is to be determined in a certain amount.  
(3) If the fine is not paid within the deadline from paragraph (1) of this Article, the Court shall make a decision on execution of imprisonment. If the fine is paid only partially, then the imprisonment will be proportional to the amount that was not paid.

### **Long-Term Imprisonment** **Article 42b**

- (1) For the gravest forms of serious criminal offences perpetrated with intent, a long-term imprisonment for a term between twenty-one and forty-five years may be imposed.
- (2) Long-term imprisonment may never be imposed as the sole principal punishment for a particular criminal offence.
- (3) Long-term imprisonment cannot be imposed on a perpetrator who has not reached twenty-one years of age at the time of perpetrating the criminal offence.
- (4) Long-term imprisonment shall be meted out in full years only.
- (5) If long-term imprisonment has been imposed, amnesty or pardon may be granted only after three-fifths of the punishment has been served.

### **Community Service** **Article 43**

- (1) When the court assesses and imposes ~~imprisonment for a term not exceeding six months~~ imprisonment up to one year, at the same time it may decide that such punishment, 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 realise the purpose of punishment, but at the same time a suspended sentence would not be sufficient to accomplish the general purpose of criminal sanctions.
- (3) Community service shall be determined for a duration proportional to the imposed imprisonment, from a minimum of ten to ~~a maximum of sixty working days~~ ninety working days maximum. The period for performing community service shall be neither shorter than one month nor longer than one year.
- (4) In assessing the duration of community service, as well as the period for its performance, the court shall take into consideration the imposed imprisonment that is being substituted and the perpetrator's possibilities regarding personal circumstances and employment.
- (5) When, upon the expiry of the determined 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 (*Substitution of Fine*) of this Code.
- (7) Placement in community service as to the type and the place of work shall be made by the Ministry of Justice, taking into consideration the capacities 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 as an exception, a convicted person who has served one third of his sentence, may be released from serving the punishment of imprisonment under condition that he does not perpetrate another criminal offence before expiration of the time of the sentence (parole, conditional release).

(2) A convicted person who has served one-half of his sentence, may be released from serving the punishment 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 his release from serving the punishment of imprisonment, and particularly not perpetrate criminal offences. In determining 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 attained.

(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 attained.

(4) The person punished by long-term imprisonment may be granted conditional release after three-fifths of the punishment have been served.

### **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 punishment of imprisonment for a term ~~of one year or a more severe punishment~~ exceeding one year or 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 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 from 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 earlier sentence shall be credited toward service of the subsequent sentence, whereas the period of time spent on parole shall not be credited.

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

(5) If the parolee is convicted to imprisonment for a term up to one year, and if the court does not order revocation of parole, the term of the release on parole shall be extended for a period of time the convicted person spent serving the punishment 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 ~~150~~ 500 KM and a maximum one may not exceed ~~50.000~~ 100,000 KM whereas for offences motivated by

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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 prescribed amount in paragraphs 2 and 3 of this Article if the value of the illegal gain resulted from the perpetration of the offence exceeds the amount of 1.000.000 KM. In such case the offender may be imposed a fine in an amount that may not exceed the double amount of the value of the illegal gain resulted from the perpetration of the offence for which he or she is being punished by a fine.

(5) A number of daily amounts is determined by the court according to the general rules on meting out penalties. A daily amount is determined by the court according to the amount of the offender's daily income calculated on the basis of his net salary during three months and his other income and family responsibilities. In determining the amount, the court relies on the data not older than six months at the moment when the fine is imposed.

(6) If data referred to in the preceding paragraph are unavailable to the court, they will be provided by the accused within the deadline as set by the court but not later than by the closing of the main 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 main trial or those relevant circumstances are unreliable, a fine is imposed in a fixed amount whereby the general rules for meting out penalties are respected.

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

(8) The court determines in the judgement a deadline for payment of the fine. Such deadline may not be shorter than fifteen days or longer than six months, but the court may allow in justified cases that the convicted pays the fine in instalments, whereby the deadline for payment may not exceed ~~two~~ one years.

(9) Fines imposed and collected under this Code shall belong to 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 in full or in part~~ paid within the period determined in the judgement, the court shall, without delay, bring 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 ~~50~~ 100 KM started, is substituted by one day of imprisonment, ~~whereby the imprisonment may not exceed one year~~ whereby it may not exceed the prescribed punishment for that 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 ceases.

## **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 ~~criminal liability~~ culpability, 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 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 milder type of punishment:

- a) When law provides the possibility of reducing the punishment; ~~and~~
- b) When the court determines the existence of highly extenuating circumstances, which indicate that the purpose of punishment can be attained by a lesser punishment.

## **Limitations in Reduction of Punishments**

### **Article 50**

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

- a) If a punishment 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 punishment 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 punishment 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 punishment 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 punishment of imprisonment of up to<sup>7</sup> one year is prescribed as the lowest punishment for the criminal offence, it may be reduced to thirty days of imprisonment;
- f) If a punishment 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 the fixed amount, it may be reduced to ~~150~~ 500 KM.

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

### **Release from Punishment** **Article 51**

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

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

### **Special Condition for Release from Punishment for Criminal Offences Perpetrated by Negligence** **Article 52**

The court may release 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 obviously not serve the purpose of punishment.

### **Concurrence of Criminal Offences** **Article 53**

~~(1) If the perpetrator, by a single action or by several actions, has perpetrated several criminal offences, for which he is tried at the same time, the court shall first assess the punishment for each of the offences separately, and then proceed with imposing a compound punishment of imprisonment, long term imprisonment or a compound fine for all the offences taken together. If~~  
(1) the perpetrator, by a single action or by several actions, has perpetrated several criminal offences, for which he is tried at the same time, the court shall first assess the punishment for each of the offences separately, and then proceed with imposing a compound punishment of

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<sup>7</sup> Corrections to CC BiH, by OHR of 28 October 2003 «OG BiH», no 32/03



long-term imprisonment, a compound punishment 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 ruled punishment of long-term imprisonment for one of several criminal offences perpetrated, this will be the only punishment imposed~~ If the court has meted out a punishment of long-term imprisonment or long-term imprisonment and imprisonment for criminal offences in concurrence, the compound sentence of long-term imprisonment shall be higher than each individual punishment, but shall not exceed 45 years.;

b) If the court has determined punishment of imprisonment for the concurrent criminal offences, the compound punishment must be higher than each of the individual punishments, but the compound punishment may not be as high as the sum of all incurred punishments, nor may it exceed a period of twenty years;

c) If for two or several concurrent criminal offences the court meted out punishments of imprisonment exceeding ten years, the court may pronounce a compound punishment of long-term imprisonment which shall not reach the sum of individual punishments of imprisonment.

~~e)d~~ If for each of the offences perpetrated in concurrence a punishment of imprisonment not exceeding three years is prescribed, the compound punishment may not exceed eight years;

~~d)e~~ If fines only have been meted out by court for the criminal offences in concurrence, the compound punishment must be bigger than any individual determined fine, but it may not exceed the sum of all fines meted out.

(3) If the court has meted out punishments of imprisonment for some of the concurrent criminal offences, and fines for others, it shall impose one punishment of imprisonment and one fine, in accordance with the provisions set forth in items b) through d) of paragraph 2 of this Article.

(4) The court shall impose an accessory punishment if it is determined for any one of the concurrent criminal offences, and if it has meted out several fines, it shall impose a single fine in following the provisions set forth in item d), paragraph 2 of this Article.

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

### **Continued Criminal Offence**

#### **Article 54**

(1) The provisions of this Code regarding 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 in 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 of the same transaction comprises offences of the same legal description, 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 of a Convicted Person**

### **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 (*Concurrence of Criminal Offences*) of this Code, taking the punishment from the earlier sentence as an already fixed punishment. The sentence or part of the sentence, which 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 punishment of imprisonment, long-term imprisonment, or juvenile imprisonment, the court shall determine the perpetrator's punishment independently of the punishment for the earlier sentence in cases when the application of the provisions set forth under Article 53 of this Code would lead to failure to achieve the purpose of punishment considering the duration of non-served portion of the previous sentence.

~~(3) If a convicted person, while serving the punishment of imprisonment, long-term imprisonment or juvenile imprisonment, perpetrates a criminal offence punished by law with a fine or punishment of not exceeding one year of imprisonment, he shall be punished with a disciplinary measure.~~

## **Credit for the Period Spent in Custody and Credit for Punishment under an Earlier 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 counted as part of 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 ~~50~~ 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 toward service of 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.

## **VIII CHAPTER EIGHT 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 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 established by the court, and 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 ~~criminal responsibility~~ culpability and other circumstances under which the criminal offence has been perpetrated.

(3) A suspended sentence may be imposed when a perpetrator has been sentenced to imprisonment for a term not exceeding two years or to a fine.

~~(4) The court may impose a suspended sentence for criminal offences for which the punishment of imprisonment for a term of ten years or a more severe punishment may be imposed only when the sentence referred to in paragraph 3 of this Article has been imposed by the reduction of punishment prescribed by the law.~~

~~(5)~~(4) The suspended sentence cannot be imposed for criminal offences for which even after a reduction of the punishment, a punishment of imprisonment for a term not exceeding one year cannot be imposed.

~~(6)~~(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.

~~(7)~~(6) Security measures, ordered alongside a suspended sentence, shall be executed.

### **Obligations of the Person under Suspended Sentence Article 60**

(1) Together with imposing a suspended sentence, the court may order the following obligations: that the convicted person shall restitute the gain acquired by the perpetration of the criminal offence, that the convicted person shall compensate for the damage caused by the perpetration of the criminal offence, or that the convicted person shall fulfil other obligations provided for in criminal legislation of Bosnia and Herzegovina.

(2) For the fulfilment of an obligation referred to in paragraph 1 of this Article, the court shall determine the period, which period shall be within the assessed period of probation.

### **Revocation of Suspended Sentence because of a New Criminal Offence**

#### **Article 61**

(1) The court shall revoke the suspended sentence if the convicted person perpetrates one or more criminal offences for which a punishment of imprisonment for a term of two years or a more severe punishment had been imposed before the probation period expired.

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

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

(4) In the event that the court does not revoke a suspended sentence, it may impose a suspended sentence or a punishment of imprisonment 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 provisions set forth under Article 53 of this Code to impose one compound sentence both for the previously perpetrated and the new criminal offence and it shall also determine one compound probation period which can not be shorter than one or longer than five years, commencing on the day the new sentence became effective. If the court imposes a punishment of imprisonment for the new criminal offence, the period of time spent serving that punishment of imprisonment shall not be deducted from the probation period established by the suspended sentence for the previously perpetrated criminal offence.

### **Revocation of Suspended Sentence because of Previously Perpetrated Criminal Offence**

#### **Article 62**

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

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

### **Revocation of Suspended Sentence caused by Failure to Fulfil Particular Obligations**

#### **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 determined probation period, does not fulfil the obligations imposed on him in cases where he could have fulfilled them.
- (2) In the case of the impossibility of fulfilling the obligations, the court may extend the deadline for the performance of the obligations, or may replace such obligations with other obligations provided for in criminal legislation of Bosnia and Herzegovina, or relieve the convicted person of the obligations.

### **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 this period, but it is established by judgement only after the expiration of the probation period, the suspended sentence may be revoked at the latest one year after the probation period has expired.
- (3) If a convicted person fails to fulfil a certain obligation referred to in Article 60 (*Obligations of the Person under Suspended Sentence*) paragraph 1 of this Code within the determined deadline, the court may revoke the suspended sentence no later than one year after the expiration of the probation period, and order execution of the punishment imposed as the suspended sentence.

### **Suspended Sentence with Protective Guardianship**

#### **Article 65**

- (1) The court may order that a perpetrator who has been subject to a suspended sentence is placed under protective guardianship if, upon having considered the circumstances of the criminal offence, personality of the perpetrator, his earlier conduct and his behaviour after perpetrating the criminal offence, it has arrived at the conclusion that it 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 outlined under this Code, provided that this protective guardianship may not last less than six months nor it may exceed two years.

### **Contents of Protective Guardianship**

#### **Article 66**

Protective guardianship may include the following obligations:

- a) Treatment in an appropriate 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;

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- d) Training for a profession;
- e) Accepting employment which is appropriate to the skills and abilities of the perpetrator;
- f) Disposing with the salary or other income and property in an appropriate way and in accordance with marital or family obligations.

### **Ordering Protective Guardianship**

#### **Article 67**

- (1) The court may impose one or several obligations set forth under Article 66 (*Contents of Protective Guardianship*) of this Code, closely defining what exactly they cover.
- (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 from which the criminal offence has been perpetrated and his conduct after perpetrating the criminal offence, 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 attained, it may terminate the protective guardianship even before its expiration.
- (4) If a convicted person who has been subject to a protective guardianship fails to fulfil obligations imposed on him by the court, the court may warn him or may replace earlier obligations with others or extend the protective guardianship within the probation period, or may revoke the suspended sentence.

## **IX CHAPTER NINE**

### **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) Prohibition to carry out a certain occupation, activity or duty,
- d) Forfeiture.



## **Imposing Security Measures**

### **Article 70**

The court may impose one or several security measures on a 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 to a perpetrator who perpetrates a criminal offence ~~in a state of considerably diminished mental capacity or diminished mental capacity~~ in a state of significantly reduced or reduced 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 termination of the reason for which it has been imposed, but in any event no longer than the punishment of imprisonment or the completion of community service or the expiry of the probation period accompanying a suspended sentence.

~~(4) As in the case referred to in Article 43 (Community Service) paragraph 5 of this Code, the execution of imprisonment may be ordered against the perpetrator of a criminal offence who, while performing community service as a substitute to imprisonment, fails to submit himself to mandatory psychiatric treatment.~~

(5) Under the conditions provided for in paragraph 2 of this Article, after a convicted person has been conditionally released, his mandatory psychiatric treatment may continue outside an institution. If he does not continue the treatment, his conditional release shall be revoked.

(6) The perpetrator of a criminal offence, who does not submit himself to psychiatric treatment during a probation period set in a suspended sentence, may be treated pursuant to the provision of Article 63 (*Revocation of Suspended Sentence Caused by Failure to Fulfil Particular Obligations*) of this Code.

## **Mandatory Medical Treatment of Addiction**

### **Article 72**

(1) The security measure of mandatory medical treatment of addiction may be imposed on a perpetrator who perpetrates a criminal offence under the decisive influence of addiction to alcohol or to narcotic drugs, if there is a danger that due to such an addiction he will repeat the offence.

(2) Under the conditions provided for in paragraph 1 of this Article, the security measure of mandatory medical treatment of addiction may be imposed along with the same criminal sanctions, for the same duration, and in the same manner as prescribed for the security measure of mandatory psychiatric treatment by this Code.

~~(3) As in the case referred to in Article 43 (Community Service) paragraph 5 of this Code, the execution of imprisonment may be ordered against the perpetrator of a criminal offence who, while performing community service as a substitute to imprisonment, fails to submit himself to mandatory treatment of addiction.~~

(4) Under the conditions provided for in Article 71 (*Mandatory Psychiatric Treatment*) paragraph 2 of this Code, after a convicted person has been conditionally released, his mandatory treatment of addiction may continue outside an institution. If he does not continue the treatment, his conditional release shall be revoked.

(5) The perpetrator of a criminal offence, who does not submit himself to the treatment of addiction during a probation period set in a suspended sentence, may be treated pursuant to the provision of Article 63 (*Revocation of Suspended Sentence Caused by Failure to Fulfil Particular Obligations*) of this Code.

### **Ban on Carrying out a 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 to a perpetrator who perpetrates a ~~criminal offence with regard to property entrusted or accessible to him by virtue of his occupation, activity or duty~~ criminal offense in connection with his occupation, activity or duty, if there is a danger that such role could induce the perpetrator to perpetrate ~~another criminal offence through the abuse of the occupation, activity or duty with regard to the property entrusted or accessible to him~~ new criminal offense in connection with 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 which exceeds one but does not exceed ten years, counting from the date the decision becomes final, with the provision that the time spent serving the punishment of imprisonment shall not be credited towards the term of this security measure.

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

(4) The perpetrator of a criminal offence who does not act in accordance with the ban on carrying out a certain occupation, activity or duty during a probation period set in a suspended sentence, may be treated pursuant to the provision of Article 63 (*Revocation of Suspended Sentence Caused by Failure to Fulfil Particular Obligations*) of this Code.

### **Forfeiture**

#### **Article 74**

(1) Forfeiture shall be ordered with regard to objects used or destined for use in the perpetration of a criminal offence, or to those that resulted from the perpetration of a criminal offence, when there is a danger that those objects will be used again for the perpetration of a criminal offence or when the purpose of protecting the public safety or moral reasons make the forfeiture seem ~~absolutely~~ necessary, if those objects are owned by the perpetrator.

(2) Objects referred to in paragraph 1 of this Article may be forfeited even if not owned by the perpetrator when consideration of public safety or moral reasons so require, but such forfeiture does not affect the rights of third parties to obtain damage compensation from the perpetrator.

(3) ~~The law may provide for mandatory forfeiture in the case of paragraph 2 of this Article~~ The Law can regulate mandatory forfeiture of objects.

## **X CHAPTER TEN**

### **RULES RELATING TO CORRECTIONAL RECOMMENDATIONS, CORRECTIONAL MEASURES AND PUNISHING JUVENILES**

#### **Special Provisions of Criminal Code Applicable to Juveniles**

##### **Article 75**

(1) The provisions of this Chapter are applicable to juveniles who have perpetrated criminal offences, while other criminal provisions, set forth in the other laws shall be applied 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 are also applied under conditions set forth in the provisions of this Chapter to adult persons who are being tried for criminal offences that they have perpetrated as juveniles, and exceptionally to persons who have perpetrated a criminal offence as young adults.

#### **Conditions for Applying Correctional Recommendations**

##### **Article 76**

(1) Correctional recommendations may be applied to a juvenile for criminal offences for which a fine or a punishment of imprisonment for a term not exceeding three years is prescribed.

(2) The correctional recommendations may be applied to a juvenile by a competent prosecutor or judge for juvenile perpetrators.

(3) The conditions for application of correctional recommendations are: the juvenile's admission that he has perpetrated the criminal offence, and his expressed willingness to make amends with the injured party.

#### **Purpose of Correctional Recommendations**

##### **Article 77**

The purpose of correctional recommendations is:

- a) To avoid initiation of criminal procedures against juvenile perpetrators; and
- b) To use the correctional recommendations as a means of influencing juveniles not to perpetrate criminal offences.

#### **Types of Correctional Recommendations**

##### **Article 78**

(1) Correctional recommendations are:

- a) Personal apology to the injured party;

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- 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) Being placed in another family, home or institution;
  - g) Treatment in an adequate health institution;
  - h) Attending instructive, educational, psychological and other forms of counselling;
- (2) Correctional recommendations given under items a) through c) and h) of paragraph 1 of this Article shall be applied by the competent prosecutor, while the correctional recommendations given under items d) through g) shall be applied by the juvenile judge.

### **Selection of Correctional Recommendations**

#### **Article 79**

- (1) When deciding which particular correctional recommendation to apply, the competent prosecutor or judge for juveniles 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 correctional recommendations.
- (2) The correctional recommendations may not last longer than one year.
- (3) Upon becoming effective, one correctional recommendation may be replaced with another, or it may be cancelled.
- (4) The selection and application of correctional recommendations is done in collaboration with the juvenile's parents or guardians and institutions of social care.

### **Criminal Sanctions for Juveniles**

#### **Article 80**

- (1) Correctional measures and certain security measures may be imposed to a juvenile perpetrator of a criminal offence, while in extreme cases, the punishment of juvenile imprisonment may be imposed on an older juvenile.
- (2) To a juvenile who at the time of perpetration of a criminal offence had attained fourteen years of age but had not reached sixteen years of age (a junior juvenile) only correctional measures may be imposed.
- (3) To a juvenile who at the time of perpetration of a criminal offence had attained sixteen years of age but had not yet reached eighteen years of age (a senior juvenile) correctional measures may be imposed under conditions laid down by this Code, and exceptionally a punishment 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 Correctional Measures and Juvenile Imprisonment**

#### **Article 81**

The purpose of correctional measures and of juvenile imprisonment is to ensure the education, rehabilitation and proper development of juveniles who have perpetrated criminal offences by

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extending protection, assistance and supervision to them, providing them with vocational training and developing their personal responsibility. In addition, the purpose of juvenile imprisonment is to exercise special influence on juvenile perpetrators in order to prevent them from perpetrating criminal offences in the future, as well as to deter other juveniles from perpetrating criminal offences.

### **Types of Correctional Measures**

#### **Article 82**

(1) Correctional measures are:

- 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 extended educational or reformatory measures, in particular if he has perpetrated a criminal offence out of thoughtlessness or frivolity.

(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 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 treatment, as well as to detach him completely from his old environment. Institutional measures may not last more than five years.

### **Correctional Measures**

#### **Article 83**

On a juvenile perpetrator of a criminal offence, the following correctional measures may be imposed:

- a) Disciplinary measure of committal to a disciplinary centre for juveniles;
- b) Measures of intensified supervision: on the part of the parents, adoptive parents or guardians, in a foster home, or on the part of a competent social care body;
- c) Institutional measures: committal to an educational institution, to an educational-reformatory home or some other training establishment.

### **Selection of Correctional Measures**

#### **Article 84**

When deciding on the appropriate correctional measure, the court shall take into account the age of the juvenile, the degree of his mental development, psychological traits, his propensities, the motives from which he perpetrated the deed, the education and upbringing he was as yet provided with, his environment and living conditions, the gravity of his deed, whether he has a previous record of punishment or whether a correctional measure has previously been ordered to him, and all other circumstances relevant to the selection of such a measure.

### **Committal to Disciplinary Centre for Juveniles**

#### **Article 85**

- (1) The court shall impose the correctional measure of committal to a disciplinary centre for juveniles when it appears necessary to exert an influence on the personality and conduct of a juvenile perpetrator of criminal offence by means of appropriate short-term measures.
- (2) A juvenile upon whom a measure set forth under 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 for not more than four consecutive days of a holiday;
  - b) For a specified number of hours during a day, but for not more than one month;
  - c) For a continuous stay over a specified number of days, totalling to not more than twenty days.
- (3) In ordering a measure set forth under 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 the labour.
- (5) In imposing the correctional measure of committal to the disciplinary centre for juveniles, the court may impose the correctional measure of intensified supervision on the part of the competent social care body, which will be executed after the execution of the correctional measure of committal to the disciplinary centre for juveniles.

### **Intensified Supervision on the Part of Parents, Adoptive Parents or Guardian**

#### **Article 86**

- (1) The correctional measure of intensified supervision on the part of 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 correctional 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 measures that need to be undertaken towards the education of the juvenile, towards his medical treatment and averting harmful influences upon him.
- (3) In imposing the correctional measure referred to in paragraph 1 of this Article, the court may make an order upon 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 this control, with the provision that 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
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correctional 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 an intensified supervision over him.

(2) The enforcement of the correctional 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 correctional measure referred to in paragraph 1 of this Article, the court shall make an order upon the competent social care body to check, throughout the duration of the measure, its enforcement, as well as to render necessary assistance to the family with which the juvenile has been accommodated.

### **Intensified Supervision on the Part of 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 correctional measure of intensified supervision in a foster home do not exist, the court shall impose on to juvenile the correctional measure of intensified supervision on the part of the competent social care body.

(2) The court shall subsequently decide on the date of discontinuation of the correctional 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 detachment 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 a correctional measure of intensified supervision referred to under Articles 86 (*Intensified Supervision on the Part of Parents, Adoptive Parents or Guardian*), 87 (*Intensified Supervision in a Foster Home*) and 88 (*Intensified Supervision on the Part of the Competent Social Care Body*) of this Code, the court may order to a juvenile one or more special obligations, if necessary for the successful enforcement of the measure, provided that the obligations cannot last longer than the correctional measure itself.

(2) The court may order to the juvenile the following obligations in particular: that he should apologise to the injured party, pay for the damage within his abilities, go to school regularly, undergo training for a job suitable for his capabilities and propensities, restrain from using liquor and intoxicating drugs, visit an appropriate health institution or counselling office, and not to associate with persons who have bad influence on him.

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

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



(5) In ordering the obligations referred to in paragraph 2 of this Article, the court shall alert a juvenile to the consequences referred to in paragraph 4 of this Article.

### **Committal to Educational Institution**

#### **Article 90**

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

(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, *Discontinuance and Modification of Decision on Correctional Measures*, paragraph 2 of this Code).

### **Committal to an Educational-Reformatory Home**

#### **Article 91**

(1) The court shall impose the correctional measure of committal to an educational-reformatory home for juvenile perpetrators to a juvenile to whom intensified reformatory measures have to be applied.

(2) In deciding whether to impose the correctional measure referred to in paragraph 1 of this Article, the court shall take into particular consideration the gravity and nature of the offence perpetrated, as well as the circumstance whether correctional measures or juvenile imprisonment have already been imposed on the juvenile.

(3) The juvenile shall remain in the educational-reformatory home for a term not shorter than one year or longer than five years. When imposing the correctional measure referred to under paragraph 1, the court shall not determine its duration, but shall subsequently decide thereupon (Article 93, *Discontinuance and Modification of Decision on Correctional Measures*, paragraph 2 of this Code).

### **Committal to Another Training Institution**

#### **Article 92**

(1) To a juvenile whose mental or physical development is impeded the court may impose the correctional measure of committal to another training institution in lieu of the correctional measure of committal to an educational institution or the correctional measure of committal to an educational-reformatory home.

(2) The juvenile shall remain in the training institution as long as it appears 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.

### **Discontinuance and Modification of Decisions on Correctional Measures**

#### **Article 93**

(1) If after the decision on imposing a correctional measure of intensified supervision or an institutional correctional measure, circumstances appear which had not existed at the time of the

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decision or had then been unknown, 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 correctional measure of intensified supervision or an institutional correctional 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 correctional measures of intensified supervision or institutional correctional measures may be discontinued due to the success achieved in the educational process, or these measures may be substituted by other such measures better suited to attainment of the purpose of correctional measures.

(3) The discontinuance or substitution of an institutional correctional measure by another type of institutional correctional measure shall be subject to the following restrictions:

- a) Enforcement of the correctional 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 by the correctional measure of committal to an educational-reformatory home or the correctional measure of committal to some other training institution;
- b) Enforcement of the correctional 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 by the correctional measure of a committal to educational institution or by the correctional measure of a committal to some other training institution.

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

### **Reconsideration of Correctional Measures**

#### **Article 94**

(1) The court shall reconsider the need of enforcing the correctional measure imposed if more than one year has elapsed since the day when the decision imposing a correctional measure of intensified supervision or an institutional correctional measure took effect, and if until such time the enforcement of the measure has not commenced. Reconsidering it, the court may decide that the previously imposed measure be enforced, not enforced or substituted with another measure.

(2) The correctional measure of committal to a disciplinary centre for juveniles shall not be executed if more than six months have elapsed since the day when the decision imposing the measure took effect, and if the enforcement of the measure has not yet commenced.

### **Punishment of Senior Juveniles**

#### **Article 95**

Only a senior juvenile ~~criminally liable~~ may be punished if he has perpetrated a criminal offence for which a punishment of imprisonment for a term exceeding five years has been prescribed, if

it would not be justifiable to apply a correctional measure because of the grave consequences of the offence perpetrated and ~~the high degree of criminal responsibility~~ the degree of culpability.

### **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 juvenile imprisonment for a term exceeding that of imprisonment prescribed for that particular criminal offence, but the court shall not be bound by the minimal 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 that may influence the sentence being longer or shorter (Article 48, *General Principles of Meting out Punishments*), paying special attention to level of mental development of the juvenile and time needed for his correction and occupational training.

### **Imposing Correctional Measures and Juvenile Imprisonment for Concurrent Criminal Offences**

#### **Article 98**

- (1) The court shall impose only one correctional measure on a juvenile for concurrent criminal offences, or only a sentence of juvenile imprisonment when legal conditions exist for that 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 establishes that a juvenile had perpetrated a criminal offence prior or after a correctional measure or juvenile imprisonment has been imposed.

### **Statute of Limitation on Execution of the Punishment of Juvenile Imprisonment**

#### **Article 99**

The execution of the sentence to juvenile imprisonment is barred when the following time periods have elapsed from the date of entering into force of the judgement by which a punishment of juvenile imprisonment has been imposed:

- a) Ten years if the punishment of juvenile imprisonment for a term exceeding five years has been imposed;
- b) Five years if the punishment of juvenile imprisonment for a term exceeding three years has been imposed;
- c) Three years if the punishment of juvenile imprisonment for a term not exceeding three years has been imposed.

### **Imposing Criminal Sanctions on Adults for Offences They Have Perpetrated as Juveniles**

#### **Article 100**

- (1) An adult who has reached twenty-one years of age may not be tried for a criminal offence he perpetrated as a junior juvenile.
- (2) If an adult has not reached twenty-one years of age at the time of the trial, he may be tried only for criminal offences for which a punishment of imprisonment for a term exceeding five years has been prescribed. The court may impose on such a person only the appropriate institutional correctional 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 correctional measure.
- (3) An appropriate institutional correctional measure may be imposed on an adult for a criminal offence he perpetrated as a senior juvenile, and under conditions referred to in Article 96 (*Juvenile Imprisonment*) of this Code, a punishment of juvenile imprisonment may also be imposed. In deciding whether to impose a sanction 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 these sanctions.
- (4) As an exception to the provision set forth in paragraph 3 of this Article, in lieu of juvenile imprisonment the court may sentence to imprisonment or impose a suspended sentence on an adult who has reached twenty-one years of age at the time of the trial. Regarding rehabilitation, deleting the sentence and legal consequences of the sentence, the sentence of imprisonment in this case shall have the same legal effect as a sentence to juvenile imprisonment.

### **Imposing Correctional Measures on Young Adults**

#### **Article 101**

- (1) The court may impose an appropriate institutional correctional measure on a perpetrator who has perpetrated a criminal offence as an adult, but who has not reached twenty-one years of age at the time of trial, if, given his personality and circumstances in which he perpetrated the criminal offence, it may reasonably be expected that the correctional measure would have the same result as an imprisonment sentence.
- (2) Under the conditions defined in this Code, the court may impose on a young adult on whom it had imposed a correctional measure any security measure prescribed in this Code, other than the security measure of prohibition to carry out a certain occupation, activity or duty.
- (3) The correctional measure imposed may last only until the perpetrator reaches twenty-three years of age.

### **Imposing Security Measures to a Juvenile**

#### **Article 102**

- (1) Security measures referred to in Article 69 (*Types of Security Measures*), items a), b) and d) of this Code may, under conditions determined in law, be imposed on a juvenile perpetrator on whom a correctional measure or a sentence to juvenile imprisonment has been imposed.

(2) A security measure of mandatory treatment of addiction may not be imposed together with disciplinary measures.

(3) Instead of a security measure of mandatory psychiatric treatment, a correctional measure of committal to another training establishment may be imposed if the treatment and the supervision may be enforced in that institution and thus the purpose of the security measure attained. In addition, the security measure of forfeiture may also be imposed.

### **Impact of Punishment on Correctional Measures**

#### **Article 103**

(1) If the court imposes a punishment of juvenile imprisonment on a senior juvenile during the course of a correctional measure, such correctional measure shall terminate with commencement of the service of the punishment.

(2) If the court imposes on an adult a punishment of juvenile imprisonment or imprisonment for a term of at least one year during the course of a correctional measure, such correctional measure shall terminate with commencement of the service of the punishment.

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

### **Effect of Correctional Measures and Sentencing to Juvenile Imprisonment**

#### **Article 104**

(1) Correctional measures and juvenile imprisonment do not entail the legal consequences consisting of the bar to acquire certain rights as set under Article 114 (*Types of Legal Consequences Incident to Conviction*), paragraph 2 of this Code.

(2) The provisions of Article 108 (*Labour by Convicted Persons*) of this Code also apply to the persons serving the correctional measure of committal to an educational-reformatory home or sentence of juvenile imprisonment.

### **Records on Correctional Measures Imposed**

#### **Article 105**

(1) Records on correctional measures imposed are to be kept with competent social care bodies pursuant to regulations adopted by the body in charge of social care in the Federation of Bosnia and Herzegovina, in the Republika Srpska and in the Brčko District of Bosnia and Herzegovina.

(2) Data on correctional measures imposed may be revealed only to the court, public prosecutor's office, internal affairs organs and social care bodies in relation to criminal proceedings against persons on whom the correctional measures were imposed.

## **XI CHAPTER ELEVEN**

### **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 punishments.
- (2) The sentence of long-term imprisonment shall be carried out in the closed-type institution for execution of punishments.

#### **Limits as to the Execution of Punishments**

##### **Article 107**

A person upon whom a punishment 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.

#### **Labour by Convicted Persons**

##### **Article 108**

- (1) A person sentenced to imprisonment, long-term imprisonment or juvenile imprisonment, if able to work, may work if he consents to it.
- (2) If a convicted person requests or consents to work, carrying out of such work shall be enabled.
- (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 persons.

#### **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, where they are to stay until they reach eighteen years of age. Those persons who have reached eighteen but who have not reached twenty-three years of age (younger adults) shall serve the sentence of juvenile imprisonment in special institutions for younger adults or in a special department of the institution where adults are serving sentence, where measures are to be taken in order to ensure that contact of younger adults and older convicted persons is prevented. If a person has not completed serving the punishment until the time he reached twenty-three years of age, he shall be sent to prison for adults.
- (2) A younger adult may stay in the institution for juvenile offenders as long as it is necessary in order to complete his schooling or training. A younger adult may not stay, under any circumstances, in the institution for juvenile offenders if this would be detrimental, in any way, for juveniles serving the sentence there.

(3) The choice of occupation for convicted juveniles shall be made in accordance with their abilities and inclinations towards some occupation, aiming to occupational training and in accordance with the possibilities available at the institution for juvenile offenders. Younger adult shall also have the possibility for education and training regardless of whether he is serving the sentence in special institutions or in special departments of prisons for adults.

(4) Working hours of the convicted juveniles are set so to enable schooling and training, and to leave enough time for physical exercise and entertainment.

(5) The convicted juvenile can be released on parole if he has served one third of his sentence, but not before one year of the time to be spent in the institution for juvenile offenders has elapsed. During the parole, the court may order the correctional measure of intensified supervision by a competent social care body. Revocation of parole shall be done in accordance with the provisions of Article 45 (*Revocation of Parole*) of this Code.

(6) The convicted juveniles, except in special circumstances, shall be entitled to maintain contacts with their family through letters and visits.

## **XII CHAPTER TWELVE**

### **CONFISCATION OF MATERIAL GAIN ACQUIRED THROUGH PERPETRATION OF A CRIMINAL OFFENCE AND LEGAL CONSEQUENCES INCIDENT TO CONVICTION**

#### **The Basis of the Confiscation of Material Gain**

##### **Article 110**

(1) Nobody is allowed to retain material gain acquired by the perpetration of a criminal offence.

(2) The gain referred to in paragraph 1 of this Article shall be confiscated by the court decision, which established the perpetration of a criminal offence, under the terms set forth under this Code.

~~(3) The court may also confiscate the gain referred to in paragraph 1 of this Article in a separate proceeding if there is a probable cause to believe that the gain derives from a criminal offence and the owner or possessor is not able to give evidence that the gain was acquired legally.~~

#### **Expanded Confiscation of Material Gain Acquired Through Perpetration of a Criminal Offence**

##### **Article 110a**

In cases of criminal proceedings for criminal offences referred to in chapters XVII, XVIII, XIX, XXI, XXI A and XXII of this Code, the court can also decide, on basis of Article 110 paragraph (2), to order confiscation material gain for which the prosecutor provides sufficient evidence that there is reasonable suspicion that it was acquired through execution of these criminal offences, and the accused person did not provide evidence to prove that the material gain was acquired legally.



## **Ways of Confiscating Material Gain**

### **Article 111**

- (1) All the money, valuable objects and every other material gain acquired by the perpetration of a criminal offence shall be confiscated from the perpetrator, and in case the confiscation is not feasible - the perpetrator shall be obliged to pay an amount of money which corresponds to the acquired material gain. Material gain acquired by perpetration of a criminal offence may be confiscated from persons to whom it has been transferred without compensation or with a compensation which does not correspond to the real value, if the persons knew or should have known that the material gain had been acquired by the perpetration of a criminal offence.
- (2) If proceeds of a criminal offence have been intermingled with property acquired from legitimate sources, such property shall be liable to confiscation not exceeding the assessed value of the intermingled proceeds.
- (3) Income or other benefits derived from the proceeds of a criminal offence, from property into which proceeds of criminal offence have been converted, or from property with which proceeds of criminal offence have been intermingled shall also be liable to the measures referred to in this Article, in the same manner and extent as the proceeds of the criminal offence.

## **Protection of Injured Party**

### **Article 112**

- (1) If criminal procedure has resulted in awarding property claims to the injured party, the court shall order the confiscation of material gain if it exceeds the awarded property claim of the injured party.
- (2) The injured party who has been directed to initiate civil litigation in the course of criminal proceedings regarding his property claim, may demand that he be reimbursed from the amount of the confiscated value, provided that the civil case is started within six months from the day when the decision by which he has been directed to litigate took effect and if he demands to be compensated from the confiscated value within three months from the day when his claim was legally established.
- (3) An injured party who did not report a property claim during the course of a criminal proceedings may demand compensation from the confiscated value, if he has begun litigating his claims within three months from the day when he found out about the judgement which confiscates a material gain, but no longer than within two years from the day when the decision on the confiscation of material gain took effect, or if within three months from the day when the decision by which his claim was established he demands compensation from the confiscated value.

## **Taking Effect of the Legal Consequences Incident to Conviction**

### **Article 113**

- (1) Sentences for particular criminal offences may entail as legal consequences the termination or loss of certain rights, or bar on the acquisition of certain rights.

(2) Legal consequences incident to conviction may not occur when the perpetrator of a criminal offence has been imposed a fine or a suspended sentence, or when the court has released him from punishment.

(3) Legal consequences incident to conviction may be prescribed only by law and they take effect by the force of the law in which they were set forth.

### **Types of Legal Consequences Incident to Conviction**

#### **Article 114**

(1) Legal consequences incident to conviction relating to the termination or loss of certain rights are the following:

- a) Cessation of the performance of particular jobs or functions in government agencies, business enterprises or other legal persons;
- b) Termination of employment or cessation of the performance of a particular profession, occupation or activity;
- c) Confiscation of permits or approvals issued by an authority or status recognized by the decision of the authority;
- ~~e)d~~ Deprivation of decorations.

(2) Legal consequences incident to conviction which consist of a bar on the acquisition of particular rights are as follows:

- a) Bar on the performance of certain jobs or functions in government agencies, business enterprises or other legal persons;
- b) Bar on the acquisition of a particular office, title, position or promotion in service;
- c) ~~Bar on the acquisition of particular permits or licenses that are issued by a decision of government agencies~~ Prohibition of obtaining any permits or approvals issued by an authority or status recognized by the decision of the authority.

### **Beginning and Duration of Legal Consequences Incident to Conviction**

#### **Article 115**

(1) The legal consequences incident to conviction take effect on the day of effectiveness of the sentence.

(2) The legal consequences incident to conviction which consist of a bar on the acquisition of particular right may not exceed ten years from the day on which the punishment has been served, pardoned or amnestied, or has been barred by the statute of limitation, except for certain legal consequences for which law provides a shorter period of duration.

(3) The legal consequences incident to conviction cease by the deletion of the sentence.

### **Termination of Security Measures and Legal Consequences Incident to Conviction on the Basis of the Court Decision**

#### **Article 116**

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

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

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

(4) The termination of legal consequences incident to conviction in no way affects the rights of third parties originating from the judgement.

### **XIII CHAPTER THIRTEEN**

#### **REHABILITATION, AMNESTY, PARDON AND DELETION OF CONVICTION**

##### **Rehabilitation**

##### **Article 117**

(1) Following release from the institution where they had served sentences of imprisonment, long-term imprisonment or juvenile imprisonment or after being pardoned or amnestied, or after the punishment was barred by the statute of limitation, 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 of paragraph 1 of this Article also applies to persons on parole, unless their rights are limited by special provisions on release on parole.

##### **Amnesty**

##### **Article 118**

(1) By an amnesty, to the persons covered by it, a release from criminal prosecution, complete or partial release from the execution of punishment, substitution of the imposed punishment by a less severe one, deletion of the conviction, or cancellation of legal consequences incident to conviction is given.

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

##### **Pardon**

##### **Article 119**

(1) By means of pardon, to the specifically designated persons, complete or partial release from the execution of punishment, substitution of the imposed punishment by a less severe one, deletion of the conviction, or annulment or shortening the duration of the security measure of prohibition to carry out a certain occupation, activity or duty, or a certain legal consequence incident to conviction is given.

(2) A pardon for the criminal offences prescribed under this Code, may be granted by the decision of the Presidency of Bosnia and Herzegovina pursuant to a specific law<sup>8</sup>. (amendments entered into force 26 November 2004)

### **Impact of Amnesty and Pardon on Third Parties**

#### **Article 120**

Granting amnesty or pardon shall in no way affect the rights of third parties that stem from the sentence.

### **Deleting Conviction**

#### **Article 121**

~~(1) A sentence by which a person who has perpetrated a criminal offence has been released from punishment shall be deleted from the criminal record, provided he does not perpetrate a new criminal offence within the period of one year from the date of entry into force of the decision.~~

~~(2) A suspended sentence shall be deleted from the criminal record after the period of one year from the expiration of the probation period has elapsed, unless the person convicted has perpetrated another criminal offence within that period.~~

~~(3) A sentence of a fine shall be deleted from the criminal record after the lapse of the period of three years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitation, provided the convicted person does not perpetrate a new criminal offence within that period.~~

~~(4) The sentences to imprisonment for a term not exceeding one year or to juvenile imprisonment for a term not exceeding one year, shall be deleted from the criminal record after the lapse of the period of five years from the day on which the punishment has been served, pardoned or amnestied, or has been barred by the statute of limitation, provided that the convicted person does not perpetrate a new criminal offence within that period.~~

~~(5) Upon appeal by a convicted person, the court may decide to delete a sentence of imprisonment for a term between one year and three years from the criminal record, if a period of five years has expired from the day on which the punishment has been served, pardoned or amnestied, or barred by lapse of time, provided that the convicted person has not perpetrated a new criminal offence within that period. In deciding on deleting the sentence, the court shall take into account the conduct of the convicted person after serving his sentence, the nature of the criminal offence, and other circumstances that might be relevant for the evaluation of the justifiability of the deletion.~~

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<sup>8</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as proclaimed by High Representative on 26 November 2004, published in "Official Gazette of BiH" no. 54/04 on 8 December 2004 entered into force 26 November 2004 :

"Article 1

In Article 119, paragraph 1, the words «a release from criminal prosecution» and a coma shall be deleted.

In paragraph 2, the words «criminal offences prescribed under this Code» shall be replaced by the words «criminal offences determined under the criminal legislation of Bosnia and Herzegovina», and the words «in accordance with law» shall be replaced by the words «pursuant to a special law.»

~~(6) Sentences may not be deleted from criminal records for as long as security measures are in force.~~

~~(7) If, during the period set for deletion of sentence, the convicted person is punished by imprisonment for a term exceeding three years, neither previous nor subsequent sentences shall be deleted from criminal record.~~

~~(8) Several sentences which have been imposed on the same person may be deleted from the criminal record only simultaneously, and only if conditions exist for each of the sentences to be deleted.~~

(1) Provided that the perpetrator is not convicted again of a new criminal offence, there shall be a mandatory deletion of the sentence upon the expiry of the following deadlines:

a) A sentence by which a person who has perpetrated a criminal offence has been released from punishment shall be deleted from the criminal records, provided he does not perpetrate a new criminal offence within the period of one year from the date of entry into force of the verdict.

b) A suspended sentence shall be deleted from the criminal record after the period of one year from the expiration of the probation period has elapsed, unless the person convicted has perpetrated another criminal offence within that period.

c) A fine and imprisonment for a term not exceeding one year shall be deleted from the criminal records after the lapse of the period of three years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.

d) A sentence of imprisonment for a term between a year and three years shall be deleted from the criminal records after the lapse of the period of five years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.

e) A sentence of imprisonment for a term between three years and five years shall be deleted from the criminal records after the lapse of the period of ten years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitation, provided that the convicted person does not perpetrate a new criminal offence within that period.

f) A sentence of imprisonment for a term between five years and ten years shall be deleted from the criminal records after the lapse of the period of fifteen years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitation, provided that the convicted person does not perpetrate a new criminal offence within that period.

(2) Upon appeal by a convicted person, the court may decide to delete a sentence of imprisonment for a term exceeding ten years, if a period of twenty years has expired from the day on which the punishment has been served, pardoned or amnestied, 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 deleting the sentence, the court shall take into account the conduct of the convicted person after serving his sentence, the nature of the criminal offence, and other circumstances that might be relevant to the evaluation of the justifiability of the deletion.

(4) A sentence of long-term imprisonment may not be deleted from the criminal records.

(5) A sentence may not be deleted from the criminal records during criminal proceedings on a new criminal offence.

(6) A sentence cannot be deleted from the criminal records neither during application of security measures nor before full completion of confiscation of material gain acquired through criminal activities.

(7) Upon the deletion of the sentence from the criminal records under the conditions referred to in paragraphs (1) through (3), it shall be considered that the perpetrator of the criminal offence has no prior convictions.

### **Criminal Records Data**

#### **Article 121a**

(1) Data from the criminal records are not public data.

(2) A citizen has the right to request and obtain data about him from the criminal records if these data are necessary for exercising his rights and interests.

(3) Replacement of the imposed fine with a community service or imprisonment, as well as replacement of imprisonment with the community service or fine shall be registered in the criminal records.

## **XIV CHAPTER FOURTEEN LIABILITY OF LEGAL PERSONS FOR CRIMINAL OFFENCES**

### **Liability of Legal Persons**

#### **Article 122**

(1) This Chapter regulates criminal liability of a legal person, 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 account of or in favour of the legal person.

(2) This Chapter regulates punishments and other criminal sanctions that may be imposed on a legal person, as well as legal consequences of the sentence for a criminal offence imposed on the legal person.

(3) The application of some punishments or other criminal sanctions that may be imposed on legal persons may be excluded or limited under the conditions stipulated by a law and for certain legal persons.

(4) The criminal procedure against legal persons shall be conducted according to the Criminal Procedure Code of Bosnia and Herzegovina.

### **Territorial Applicability of this Code regarding ~~Criminal~~ Liability of Legal Person**

#### **Article 123**

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

(2) Domestic and foreign legal persons shall, pursuant to this Code, also be liable for a criminal offence perpetrated outside the territory of Bosnia and Herzegovina if the legal person 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 persons.

(3) Pursuant to this Code a domestic legal person shall also be liable for a criminal offence perpetrated outside the territory of Bosnia and Herzegovina against a foreign state, foreign

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citizens or foreign legal persons, ~~subject to the conditions referred to in Article 12~~ under conditions referred to in Article 9 (*Applicability of Criminal Legislation of Bosnia and Herzegovina for Offences Perpetrated Outside the Territory of Bosnia and Herzegovina*) of this Code.

### **Basis of Liability of a Legal Person** **Article 124**

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

- a) When the purpose of the criminal offence is arising from the conclusion, order or permission of its managerial or supervisory bodies; or
- b) When its managerial or supervisory bodies have influenced the perpetrator or enabled him to perpetrate the criminal offence; or
- c) When a legal person disposes of illegally obtained property gain or uses objects acquired in the criminal offence; or
- d) When its managerial or supervisory bodies failed to carry out due supervision over the legality of work of the employees.

### **Limits of Liability of a Legal Person** **Article 125**

(1) With the conditions referred to in Article 124 (*Basis of Liability of a Legal Person*) of this Code, a legal person shall also be liable for a criminal offence when the perpetrator is ~~not~~ not criminally liable not guilty for the perpetrated criminal offence.

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

(3) For criminal offences perpetrated out of negligence, a legal person may be liable under the conditions referred to in Article 124, item d) of this Code, and in that case the legal person may be punished less severely.

(4) When in the legal person except from the perpetrator there is no other person or body that could direct or supervise the perpetrator, the legal person shall be liable for the criminal offence within the limits of the perpetrator's liability.

### **Liability Incident to the Change of Status of a Legal Person** **Article 126**

(1) A legal person under bankruptcy may be ~~criminally~~ liable for a criminal offence regardless of whether the criminal offence was perpetrated before the beginning of the bankruptcy proceedings or in the meantime, but no punishment may be imposed on a legal person under bankruptcy, but only the security measure of forfeiture or the confiscation of property gain.

(2) In the event that the legal person has ceased to exist before the criminal proceedings are completed with a final judgement, and in the criminal proceedings that legal person was found ~~criminally~~ liable, punishments and other criminal sanctions shall be imposed on the legal person 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 person.



(3) The security measure of forfeiture or the confiscation of material gain shall be imposed upon the legal person, which is the legal successor of the convicted legal person, if its management or supervision bodies had knowledge of the perpetrated criminal offence.

(4) In the event the legal person has ceased to exist upon the final completion of the criminal proceedings, the criminal sanction shall be executed pursuant to the provisions of paragraphs 2 and 3 of this Article.

### **Liability of a Legal Person 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 (*Basis of Liability of a Legal Person*) of this Code, the legal person shall be liable where the law prescribes that the attempt is punishable.

(2) The legal person shall be punished equally as if it were for the completed criminal offence but may nevertheless be punished less severely.

(3) If the managerial or supervisory authorities of the legal person have prevented the perpetrator from completing the commenced criminal offence, the legal person may be released from punishment.

### **Continued Criminal Offence and ~~Criminal~~ Liability of Legal Person** **Article 128**

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

### **Complicity of Legal Persons** **Article 129**

(1) In the event that two or more legal persons are found to have partaken in the perpetration of a criminal offence, each shall be subject to liability pursuant to Article 124 (*Basis of Liability of a Legal Person*) of this Code.

(2) Where there is complicity of legal persons referred to in paragraph 1 of this Article, each legal person shall be held accountable as if it were the only legal person ~~criminally~~ liable for the criminal offence.

### **General Reasoning for Less Severe Punishment of Legal Person or Release from Punishment** **Article 130**

(1) A legal person, whose managerial or supervisory authority has willingly reported on the perpetrator upon a criminal offence perpetrated, may be punished less severely.

(2) A legal person whose managerial or supervisory authority, following the perpetration of a criminal offence, decides to return the illegally obtained material gain or to remove the caused harmful effects or to communicate the information concerning the grounds for holding the other legal persons responsible, may be released from punishment.

### **Punishment for Legal Persons**

#### **Article 131**

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

- a) Fines;
- b) Seizure of property;
- c) Dissolution of the legal person.

### **Fines for Legal Persons**

#### **Article 132**

(1) Fines imposable on a legal person shall be no less than 5.000 KM and shall not exceed 5.000.000 KM.

(2) In the event that, by perpetrating the criminal offence, the legal person has caused material damage to another party or the legal person has come into possession of an unlawful material gain, the scope of the imposed fine may be twice as much as the amount of this damage or benefit.

(3) If a fine is not paid within the deadline set forth in the verdict, the procedure for forcible collection shall be implemented immediately.

### **Seizure of Property**

#### **Article 133**

(1) The seizure of property may be imposed for criminal offences for which a punishment of imprisonment for a term of five years or more severe punishment is prescribed.

(2) From a legal person at least half of the property or the major part of the property or the entire property may be seized.

(3) In the event of bankruptcy proceedings being brought about as a consequence of the imposed seizure punishment, the creditors shall be permitted to settle their claims out of the mass of the seized bankruptcy assets.

### **Dissolution of the Legal Person**

#### **Article 134**

(1) Dissolution of a legal person may be imposed in the case that its activities were entirely or partly being used for the purpose of perpetrating criminal offences.

(2) Besides the dissolution of a legal person, the property seizure punishment may be imposed.

(3) In addition to the dissolution of a legal person, the court shall propose the opening of a liquidation procedure.

(4) Creditors may be paid out from the property of the legal person upon which the punishment of dissolution has been imposed.

## **Meting out Punishment for Legal Persons**

### **Article 135**

(1) When meting out punishment for a legal person, in addition to the general rules of meting out punishments referred to in Article 48 (*General Principles of Meting out Punishments*) of this Code, the economic power of the legal person shall also be taken into account.

(2) When meting out the fine for criminal offences for which, in addition to a fine also a property seizure punishment is imposed, the punishment may not exceed a half of the amount of the legal person's property.

## **Imposing a Suspended Sentence to a Legal Person**

### **Article 136**

(1) The court may impose a suspended sentence on the legal person instead of a fine.

(2) When imposing a suspended sentence the court may impose on the legal person a fine not exceeding 1.500.000 KM, but at the same time decide that the same shall not be executed unless the legal person becomes liable for other criminal offences within the period of time not shorter than one year or longer than five years.

## **Security Measures for Legal Persons**

### **Article 137**

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

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

## **Publication of Judgement**

### **Article 138**

(1) The security measure of a 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 safety of traffic ~~or to obtain certain benefits for economy or for protection or encouragement of social values.~~

(2) Concerning the significance of a criminal offence the court shall also assess the need for the public to learn about the judgement, the need as to whether the judgement shall be published in the printed media, by way of radio or television or in several aforesaid media altogether and at the same time as to whether its grounds shall be published entirely or as an abstract. The court shall make sure that the applied method of publication allows that all those concerned by the need for publication of the judgement should be informed.

## **Ban on Certain ~~Economic~~ Activities**

### **Article 139**

(1) By ordering the ~~security measure of a ban on certain economic activities~~ security measures of a ban on a certain activity, the court may prohibit a legal person from manufacturing certain products or performing certain businesses, or prohibit a legal person from performing certain activities of trade in commodities ~~or from performing other economic activity or from performing other business i.e. activities.~~

(2) The security measure referred to in paragraph 1 of this Article may be imposed on a legal person if its further ~~performing of a certain economic activity~~ performing of a certain activity would present a threat to life and limb of people or be ~~prejudicial to the economic and financial operation of other legal persons~~ prejudicial to the economic and financial operation of other persons or detrimental to the economy, or if the legal person has already been sentenced 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 six months to five years, commencing on the day of the entering into force of the judgement.

## **Confiscating Material Gain from a Legal Person**

### **Article 140**

If a legal person acquires material gain by the perpetration of a criminal offence, the material gain acquired by the perpetration of a criminal offence shall be confiscated from the legal person.

## **Legal Consequences Incident to Conviction for a Legal Person**

### **Article 141**

(1) Legal consequences incident to conviction for a legal person are:

- a) Bar on work based on a permit, authorisation or concession issued by the authorities of foreign countries;
- b) Bar on work based on a permit, authorisation or concession issued by the institutions of Bosnia and Herzegovina.

(2) Legal consequences incident to conviction for a legal person may take effect even when a fine has been imposed on a legal person for the perpetration of a criminal offence.

## **Period Set by Statute of Limitation Regarding the Institution of ~~Criminal~~ Prosecution and Execution of Criminal Sanctions Imposed on Legal Persons**

### **Article 142**

(1) On the bar to ~~criminal~~ prosecution of a legal person by the lapse of time, Article 14 (*Period Set by Statute of Limitation Regarding the Institution of Criminal Prosecution*) of this Code is applied.

(2) The execution of a sentence imposed on the legal person shall become time-barred when the following periods from the date of the entry into force of the judgement whereby such punishment has been imposed have elapsed:

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- a) Three years for execution of a fine;
  - b) Five years for execution of the property seizure punishment and of the punishment of dissolution of legal person.
- (3) The execution of a security measure shall become time-barred after the lapse of:
- a) Six months from the date of entry into force of the judgement whereby the publication of the judgement was imposed;
  - b) The period that equals the time for which the measure of ban on performing certain ~~economic~~ activity of the legal person was imposed.

### **Laws Prescribing the Criminal Offences of Legal Persons**

#### **Article 143**

Legal persons may be held ~~criminally~~ liable for criminal offences defined in this Code and other criminal offences defined by a law of Bosnia and Herzegovina.

### **Punishments for Criminal Offences**

#### **Article 144**

- (1) For criminal offences for which a fine or imprisonment for a term not exceeding three years is prescribed, a legal person shall be punished by a fine of not exceeding 850.000 KM or not exceeding ten times the amount of the damage caused or material gain acquired through the perpetration of a criminal offence.
- (2) For criminal offences for which imprisonment for a term not less than three years is prescribed, a legal person shall be punished by a fine of not exceeding 2.500.000 KM or not exceeding twenty times the amount of the damage caused or material gain acquired through the perpetration of a criminal offence.
- (3) For criminal offences for which imprisonment for a term of five years or more is prescribed, to a legal person a property seizure punishment may be imposed instead of a fine.
- (4) For criminal offences referred to in paragraph 1 of this Article, to a legal person a punishment of dissolution of the legal person may be imposed instead of the fine, under the requirements referred to in Article 134 (*Dissolution of a Legal Person*) of this Code.

## **SPECIAL PART**

### **XV CHAPTER FIFTEEN CRIMINAL OFFENCES AGAINST FREEDOM AND RIGHTS OF INDIVIDUALS AND CITIZENS**

#### **Infringement of the Equality of Individuals and Citizens Article 145**

(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who on the ground 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 international agreement, law of Bosnia and Herzegovina, some other regulation of Bosnia and Herzegovina or general act of Bosnia and Herzegovina or, whoever on the ground of these differences or background or other status grants unjustified privileges or does unjustified favours 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 on 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 persons in order to exercise his rights,

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

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

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

#### **Inciting national, racial and religious hatred, discord or hostility Article 145a**

(1) Whoever publicly incites or inflames national, racial or religious hatred, discord or hostility among the constituent peoples and others who live in Bosnia and Herzegovina shall be punished by imprisonment for a term between three months and three years.

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

#### **Damaging or Destroying Religious Facilities Article 145b**

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

## **Prevention of Return of Refugees and Displaced Persons**

### **Article 146**

- (1) Whoever by use of force, serious threat or in some other illegal way, on a larger scale or with a larger impact, prevents refugees and displaced persons to return to their homes of origin, or to use their property of which they were deprived in the course of hostilities since 1991, shall be punished by imprisonment for a term between one and ten years.
- (2) Whoever participates in a group of people, which perpetrates the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not less than three years.
- (3) Whoever organises or directs at any level the group of people, which perpetrates the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term 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 punished by a fine or 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 the execution was cruel, or if such a treatment of the person who was illegally 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 between two and eight years.
- (3) If the person who has been illegally deprived of freedom lost his life as a result of the deprivation, the perpetrator shall be punished by imprisonment for a term not less than five years.

## **Unauthorized Wiretapping and Audio or Video Recording**

### **Article 147a**

- (1) An official or responsible person in the institutions of Bosnia and Herzegovina who, by using special devices, without authorization wiretaps or audio records a conversation or a statement which was not intended for him, or enables an unauthorized person to become familiar with a conversation or a statement that was wiretapped or audio recorded without authorization, or who, without authorization, wiretaps or records another person's messages in a computer system, shall be punished by imprisonment for a term 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 a photograph, makes a video recording or any other recording of another person without his consent on his premises or who communicates such recording directly to a third party or shows it to the third party, or enables the third party in another way to be directly acquainted with the record.



### **Violation of the Right to Submit Complaints and Petitions**

#### **Article 148**

An official or responsible person in institutions of Bosnia and Herzegovina ~~who abuses his position or authority~~ by abusing his position or authority and prevents another person from exercising his right to submit an appeal, objection, request, petition or complaint, shall be punished by a fine or imprisonment for a term not exceeding ~~one~~ three year.

### **Unauthorized 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 punished by a fine or by imprisonment not exceeding six months.

### **Unlawful Withholding of Identity Papers**

#### **Article 149a**

Whoever, with the aim of limiting the freedom of movement or exercising power over a person unlawfully withholds another person's identification or travel documents,  
shall be punished by imprisonment for a term 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 an aim of preventing someone from exercising suffrage, unlawfully fails to enter a name in a voting list, or strikes a name out of an electoral roll, or prevents a person from voting in any other way, shall be punished by a fine or imprisonment for a term not exceeding three years.

### **Violating the Free Decision-making of Voters**

#### **Article 151**

(1) Whoever, during elections for the institutions of Bosnia and Herzegovina or a recall vote or at a referendum, coerces a voter in Bosnia and Herzegovina by use of force, serious threat, bribery or by taking advantage of his poor material position, or in any other illegal way, 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 punished by a fine ~~or imprisonment for a term not exceeding one year~~ and 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 between six months and five years.

### **Voting Fraud Article 152**

Whoever at an election for the institutions for 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, votes under the name and in lieu of another person, ~~or votes or tries to vote again after having voted once,~~  
~~shall be punished by a fine or imprisonment for a term not exceeding three years~~ shall be punished by imprisonment for a term 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 vote of representatives in the institutions of Bosnia and Herzegovina or a referendum held within Bosnia and Herzegovina,  
shall be punished by a fine or imprisonment for a term not exceeding six months.
- (2) Whoever by force, serious threat or in some other illegal way demands from a citizen to state for whom and how he voted, or whether he voted for or against a recall,  
shall be punished by a fine or 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, vote or referendum,  
shall be punished by a fine or imprisonment for a term not exceeding three years.

### **Election Forgery Article 154**

Whoever falsifies results of an election or voting for the institutions of Bosnia and Herzegovina by adding, subtracting or taking out votes or signatures, by an inaccurate counting of votes, by making false records of the result in election documents or in any other way, or who discloses election or vote results as the final which do not correspond to the voting which has been carried out,  
shall be punished by imprisonment for a term between six months and five years.

### **Destroying Election Documents Article 155**

Whoever at an election for the institutions of Bosnia and Herzegovina, a recall vote of representatives in the institutions of Bosnia and Herzegovina or a referendum held within Bosnia and Herzegovina destroys, conceals, damages or takes away 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 between six months and five years.

**Giving a fraudulent declaration during the appointment process**  
**Article 155.a**

(1) Whoever, with a view to deceiving or keeping an appointing authority or the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina or its relevant body in deception concerning his/her fulfilment of requirements for his/her appointment to the position of Chairperson, Minister or Deputy Minister in the Council of Ministers of Bosnia and Herzegovina or for confirmation of his/her appointment to these positions during the appointment or confirmation process that is conducted on the grounds of law, gives a fraudulent declaration in writing or orally on data or information required for decision on his/her fulfilment of requirements, which is he obliged to give by law or other regulations, and thereby conceals or alters facts important for decision on appointment or confirmation, shall be punished by a term of imprisonment of up to three years.

(2) When the offender voluntarily retracts his/her fraudulent declaration before a final decision on confirmation is issued, he/she shall be punished by a fine or a term of imprisonment of up to six months or may be released from punishment.<sup>9</sup>

**XVI CHAPTER SIXTEEN**  
**CRIMINAL OFFENCES AGAINST THE INTEGRITY OF BOSNIA AND HERZEGOVINA**

**Attack on the 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 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 not less than five years.

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<sup>9</sup> OG BiH 55/06

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### **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 between one and ten years.

### **Service in the Army of the Enemy**

#### **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 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 not less than five years.

### **Aiding the Enemy**

#### **Article 160**

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

(2) A citizen of Bosnia and Herzegovina, who with an aim of aiding the enemy politically or economically collaborates with the enemy at time of war, shall be punished by imprisonment for a term not less than three years.

### **Undermining the Military and Defensive Power**

#### **Article 161**

(1) Whoever, with an 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 objects, positions, arms or other military or defensive means, 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 not less than three years.

(2) Whoever procures means for perpetrating the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term between one and ten years.

## **Armed Rebellion**

### **Article 162**

- (1) Whoever takes part in an armed rebellion which is aimed against the constitutional order of Bosnia and Herzegovina or against its highest institutions, shall be punished by imprisonment for a term not less than three years.
- (2) Whoever organises or directs at any level the perpetration of the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not less than five years.
- (3) Whoever procures means for perpetrating the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term between one and ten years.

## **Illegal Creation of Military Forces**

### **Article 162.a**

- (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 not less than five years.
- (2) The punishment referred to in paragraph 1 of this Article shall be imposed on whoever directs ~~at any level~~ in any way the perpetration of the criminal offence referred to in paragraph 1 of this Article.
- (3) Whoever joins in any way 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 not less than three years.
- (4) Whoever procures means for perpetrating the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term between one and ten years.<sup>10</sup>

## **Espionage**

### **Article 163**

- (1) Whoever discloses, delivers or renders available secret data<sup>11</sup> to a foreign country, foreign organisation or a person in the service thereof, shall be punished by imprisonment for a term between one and ten years.

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<sup>10</sup> OG BiH 53/06

<sup>11</sup> OG BiH 53/06

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(2) Whoever within Bosnia and Herzegovina creates an intelligence service detrimental to Bosnia and Herzegovina on account of a foreign country or organisation, or whoever runs such service,

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

(3) Whoever becomes a member of a foreign intelligence service, collects information for such a service or in any other way assists activities of such a service,

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

(4) Whoever obtains secret data<sup>12</sup> with an aim of disclosing or delivering it to a foreign country, foreign organisation or a person in the service thereof,

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

(5) Whoever procures means for perpetrating the criminal offence referred to in paragraph 1 and 2<sup>13</sup> of this Article,

shall be punished by imprisonment for a term 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, who is authorised to classify data or to access secret data and who without authorisation communicates, conveys or in any other way makes accessible to another secret data, or obtains secret data with an aim of conveying it to an unauthorised person,

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

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

(3) The punishment of imprisonment for a term between one and ten years shall be imposed on whoever perpetrates the criminal offence referred to in ~~para-~~ 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 "secret", or as "state secret" or with the degree "top secret"; or

c) for the purpose of communicating, conveying or in other way making accessible or using the secret data outside of Bosnia and Herzegovina.

(4) If the criminal offence referred to in ~~para-~~ paragraphs 1 and 3 of this Article was perpetrated by a person who pursuant to the law on protection of secret data has legal authorization to classify data or to access secret data of a degree in respect of which the criminal offence was perpetrated, the perpetrator shall be punished:

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<sup>12</sup> OG BiH 53/06

<sup>13</sup> OG BiH 53/06

- a) for the criminal offence referred to in paragraph 1 of this Article by imprisonment for a term not less than three years;
  - b) for the criminal offence referred to in paragraph 3 of this Article by imprisonment for a term not less than five years.
- (5) If the criminal offence referred to in ~~para~~ paragraphs 1, 2 and 3 of this Article has been perpetrated during a state of war or imminent war threat or a state of emergency or when an order for the engagement and employment of the Armed Forces is issued, the perpetrator shall be punished by imprisonment for a term not less than five years.
- (6) If the criminal offence referred to in ~~para~~ 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 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 "secret", or as "state secret" or with the degree "top secret", the perpetrator shall be punished by imprisonment for a term between six months and five years.
- (8) Provisions of ~~para~~ paragraphs 1, 3, 4, 5, 6 and 7 of this Article shall also be applied to a person who without authorisation communicates, conveys or in any other way makes accessible to another secret data, after his function 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 with the constitutional order of Bosnia and Herzegovina, with an aim of disclosing to the public the irregularities attached to organising, performance or management of the office or with an aim of disclosing to the public the facts which constitute a violation of the constitutional order or of an international agreement, provided that the making public has no substantial prejudicial consequences for Bosnia and Herzegovina.<sup>14</sup>

### **Dispatching and Transferring Armed Groups, Arms and Ammunition into the Territory of Bosnia and Herzegovina**

#### **Article 165**

Whoever dispatches or transfers to the territory of Bosnia and Herzegovina armed groups, terrorists, spies, raiders, weapons, explosive, poisons, equipment, ammunition or other material for the purpose of perpetrating criminal offences defined in this Chapter, shall be punished by imprisonment for a term between one and ten years.

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<sup>14</sup> OG BiH 53/06

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### **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 punished by a fine or imprisonment for a term not exceeding three years.

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

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

### **Assassination of a Representative of the 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 Chair of either House 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 when not on duty, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

### **Kidnapping of a Representative of the 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 in some other manner deprives an official person of the institutions of Bosnia and Herzegovina, in the discharge of his duties of the freedom of movement, or restricts it in some way, with the aim of forcing him or some other person to do or to omit or to bear something,

shall be punished by imprisonment for a term 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 in some other manner deprives a member of the Presidency of Bosnia and Herzegovina, the Chair of the Council of Ministers of Bosnia and Herzegovina, the Chair of either House 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 of the freedom of movement, or restricts it in some way, with the aim of forcing him or some other person to do or to omit or to bear something,

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

## **Punishment for the Gravest Criminal Offences**

### **Article 169**

(1) For a criminal offence referred to in Article 156 (*Attack on the Constitutional order*), 157 (*Endangering Territorial Integrity*), 161 (*Undermining the Military and Defensive Power*), 162 (*Armed Rebellion*) and 163 (*Espionage*) of this Code, which caused the death of a person or a number of 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 not less than ten years or 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 not less than ten years or 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 goal of perpetrating a criminal offence defined in this Chapter, or whoever procures means for perpetrating a criminal offence defined in this Chapter, shall be punished by imprisonment for a term ~~between one and ten years~~ not less than three years.

## **XVII CHAPTER SEVENTEEN**

### **CRIMES AGAINST HUMANITY AND VALUES PROTECTED BY INTERNATIONAL LAW**

#### **Genocide**

##### **Article 171**

Whoever, with an aim to destroy, 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 conditions of life 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 not less than ten years or 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);

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(In case of any issue regarding authenticity of text or translation, the local language version shall prevail)

- 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 by force or by threat of immediate attack upon his life or limb, or the life or limb of a person close to him, to sexual intercourse or an equivalent sexual act (rape), sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity;
- h) Persecutions against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or sexual 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 competence 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 intentionally causing great suffering, or serious injury to body or to physical or mental health,

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

(2) For the purpose of paragraph 1 of this Article the following terms shall have the following meanings:

- a) *Attack directed against any civilian population* means a course of conduct involving the multiple perpetrations of 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 attack.
- b) *Extermination* includes the intentional infliction of conditions of life, especially deprivation of access to food and medicines, 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 area 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 ~~by the accused or under control of the accused~~ by the perpetrator or under supervision of the perpetrator; except that torture shall not include pain or suffering arising only 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, contrary to 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 that deprivation of freedom or to give information on the fate or whereabouts of those persons, with an aim of removing them from the protection of the law for a prolonged period of time.
- i) *The crime of apartheid* means 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 and perpetrated with an aim of maintaining 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 unable to fight, which results in the death, grave bodily injuries or serious damaging of people's health;
- b) Attack without selecting a target, by which civilian population is harmed;
- 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 by force or by threat of immediate attack upon his life or limb, or the life or limb of a person close to him, 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 in concentration camps and other illegal arrests and detention, deprivation of rights to fair and impartial trial, forcible service in the armed forces of enemy's army or in its intelligence service or administration;
- f) Forced labour, starvation of the population, property confiscation, pillaging, illegal and self-willed destruction and stealing on large scale of property that is not justified by military needs, taking an illegal and disproportionate contribution or requisition, devaluation of domestic money or the unlawful issuance of money,

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

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

- a) Attack against objects specifically protected by the international law, as well as objects and facilities with dangerous power, such as dams, embankments and nuclear power stations;
- b) Targeting indiscriminately of civilian objects which are under specific protection of international law, of non-defended places and of demilitarised zone;
- 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 the time of war, armed conflict or occupation, orders or carries out as an occupier the resettlement of parts of his civilian population into the occupied territory, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

### **War Crimes against the Wounded and Sick Article 174**

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

- a) Depriving another persons of their life (murders), intentional infliction of severe physical or mental pain or suffering upon persons (tortures), inhuman treatment, including therein 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 destruction or large-scale appropriation of material, means of medical transport and stocks of medical facilities or units which is not justified by military needs,
- shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

### **War Crimes against Prisoners of War Article 175**

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

- a) Depriving another persons of their life (murders), intentional infliction of severe physical or mental pain or suffering upon persons (tortures), inhuman treatment, including therein 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) Compulsive enlistment into the armed forces of an enemy power, or deprivation of the right to a fair and impartial trial,
- shall be punished by imprisonment for a term not less than ten years or 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 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*) or 175 (*War Crimes against Prisoners of War*) of this Code, shall be punished by imprisonment for a term not less than ten years or 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 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 in its ranks or on its account, shall be punished by a fine or imprisonment for a term not exceeding three years, but may also be released from punishment.

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

### **Unlawful Killing or Wounding of the Enemy**

#### **Article 177**

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

shall be punished by imprisonment for a term 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 way, out of greed or from other low motives, or if more persons have been killed, the perpetrator

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

(3) Whoever, in violation of the rules of international law at the 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 basis,

shall be punished by imprisonment for a term not less than ten years or 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 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 between one and ten years.

### **Violating the Laws and Practices of Warfare**

#### **Article 179**

(1) Whoever in time of war or armed conflict orders the violation of laws and practices of warfare, or whoever violates them,

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

(2) Violations of laws and practices of warfare referred to in paragraph 1 of this Article shall include:

- a) Use of poison gases or other lethal substances or agents with the aim to cause unnecessary suffering;
- b) Ruthless demolition of cities, settlements or villages or devastation or ravaging not justified by military needs;



- c) Attack or bombarding by any means of undefended cities, villages, residences or buildings;
- d) Confiscation, destruction or deliberate damaging of establishments devoted to for religious, charitable or educational purposes, science and art; historical monuments and scientific and artistic work;
- e) Plundering and looting of public and private property.

~~**Individual Criminal Responsibility**~~ **Individual and Command Responsibility**  
**Article 180**

(1) A person who planned, ~~instigated~~, ordered, perpetrated or otherwise aided and abetted in the planning, preparation or execution of a criminal offence referred to in Article 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 (*Violating the Laws and Practices of Warfare*) of this Code, ~~shall be personally responsible~~ shall be guilty for the criminal offence. The official position ~~of any accused person~~, whether as Head of State or Government or as a responsible Government official person, shall not relieve such person of ~~criminal responsibility~~ guilt nor mitigate punishment.

(2) The fact that any of the criminal offences referred to in Article 171 through 175 and Article 177 through 179 of this Code was perpetrated by a subordinate does not relieve his superior of ~~criminal responsibility~~ guilt if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts 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 ~~criminal responsibility~~ guilt, but may be considered in mitigation of punishment if the court determines that 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 way violates their privilege of inviolability, shall be punished by imprisonment for a term 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 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 at the time of war or armed conflict, destroys cultural, historical or religious monuments, buildings or establishments devoted to science, art, education, humanitarian or religious purpose, shall be punished by imprisonment for a term between one and ten years.
- (2) If a clearly distinguishable object, which has been under special protection of the international law as people's cultural and spiritual heritage, has been destroyed by the criminal offence referred to in paragraph 1 of this Code, the perpetrator shall be punished by imprisonment for a term not less than five years.

## **Misuse of International Emblems**

### **Article 184**

- (1) Whoever misuses or carries without authorisation 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 international symbols recognised as the protection of certain objects from military operations, shall be punished by a fine or 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 between six months and five years.

## **Establishment of Slavery and Transport of Slaves**

### **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 freedom or the freedom of the person he provides for or takes care of, shall be punished by imprisonment for a term between one and ten years.
- ~~(2) Whoever, in violation of the rules of international law, buys, sells, hands over to another person or mediates in the purchase, sale or handing over of a child or a juvenile for the purpose of adoption, transplantation of organs, exploitation by labour or for other illicit purposes, shall be punished by imprisonment for a term not less than five years.~~ Whoever, in violation of the rules of international law, buys, sells, hands over to another person or mediates in the purchase, sale or handing over of an individual younger than 18 years of age, for the purpose of adoption, removal of organs or, 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 similar status, shall be punished by imprisonment for a term between six months and five years.

## **Trafficking in Persons**

### **Article 186<sup>15</sup>**

~~(1) Whoever, by means of use of force or threat of use of force or other forms of coercion, of abduction, of fraud or deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbours or receipts a person, for the purpose of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or similar status, servitude or the removal of organs or of the other type of exploitation, shall be punished by imprisonment for a term between one and ten years.~~

~~(2) Whoever recruits, transports, transfers, harbours or receipts a child or a juvenile for the purpose of the exploitation referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not less than five years.~~

~~(3) Whoever organises or directs at any level the group of people for the purpose of perpetration of the criminal offences referred to in paragraphs 1 and 2 of this Article, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.~~

~~(4) The circumstance whether a person consented to the exploitation referred to in paragraph 1 of this Article is of no relevance for the existence of a criminal offence of trafficking in persons.~~

(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 of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbors or receives a person for the purpose of the prostitution of that person or other forms of sexual exploitation, forced labor or services, slavery or a similar status, servitude or the removal of organs or of some other type of exploitation, shall be punished by imprisonment for a term of not less than three years.

(2) Whoever recruits, solicits, transports, transfers, harbours or receives a person younger than 18 years of age with the purpose of exploitation referred to in Paragraph 1 of this Article, shall be punished by imprisonment for a term for at least five years.

(3) If the criminal offense referred to in Paragraphs (1) and (2) of this Article is committed by an official person while executing official duty, the perpetrator shall be punished by imprisonment for a term of not less than five 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 human trafficking, shall be punished by imprisonment for a term between one and five years.

(5) Whoever organizes or directs at any level the group of people for the purpose of perpetration of the criminal offenses referred to in Paragraphs (1) or (2) of this Article, shall be punished by imprisonment for a term of not less than ten years or long-term imprisonment.

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<sup>15</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH" no. 61/04 on 29 December 2004, entered into force on 6 January 2005

(6) Whoever uses the services of the victims of human trafficking, shall be punished by imprisonment for a term of between six months and five years.

(7) If the perpetration of the criminal offense referred to in Paragraphs (1) and (2) 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 five years or long-term imprisonment.

(8) Items and conveyances used for the perpetration of the offense shall be seized, while the facilities and premises used for human trafficking, without prejudice to the rights of the third parties, may be closed temporarily or permanently.

(9) Whether the person who is a victim of human trafficking consented to the exploitation bears no relevance to the existence of the criminal offense of human trafficking.

### **International Procuring in Prostitution**

#### **Article 187**

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

(2) Whoever, by force or threat to use force or deceit, coerces or induces another person to go to the state in which he has no residence or of which he is not a citizen, for the purpose of offering sexual services upon payment,

shall be punished by imprisonment for a term between ~~six months and five years~~ one and ten years.

~~(3) If the criminal offence referred to in paragraphs 1 and 2 of this Article is perpetrated against a child or a juvenile, the perpetrator~~

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

~~(4)~~ (3) The fact whether the person procured, enticed, led away, forced or deceived into prostitution has already been engaged in prostitution is of no relevance for the existence of a criminal offence.

### **~~Unlawful Withholding of Identity Papers~~**

#### **~~Article 188~~**

~~Whoever, with an aim of limiting the freedom of movement or exercising power over a person unlawfully withholds another person's identification or travel paper<sup>16</sup>;~~

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

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<sup>16</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH" no. 61/04 on 29 December 2004, entered into force on 6 January 2005:

## Smuggling of Persons Article 189<sup>17</sup>

~~(1) Whoever, out of gain, transports across the state border one or more persons that do not comply with the requirements for legal entry across the state border, or whoever enables another person to cross the border illegally,~~

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

~~(2) Whoever, out of gain, enables a person who is not a citizen or permanent resident of a receiving state to remain in the territory of that state without complying with the requirements for legal stay,~~

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

~~(3) If, during the perpetration of the criminal offence referred to in paragraph 1 of this Article, life or safety of persons transported across the state border was endangered or was likely to be endangered, or they were treated for the purpose of exploitation or in another inhuman or degrading manner, the perpetrator~~

~~shall be punished by imprisonment for a term between one and eight years.~~

~~(4) If, during the perpetration of the criminal offence referred to in paragraph 2 of this Article, life or safety of persons to whom illegal stay in the territory of a receiving state was enabled was endangered or was likely to be endangered, or they were treated for the purpose of exploitation or in another inhuman or degrading manner, the perpetrator~~

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

~~(5) Whoever organizes or directs at any level a group of people for the purpose of perpetrating the criminal offence referred to in paragraphs 1 and 2 of this Article,~~

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

(1) Whoever, with the aim of gaining profit for themselves or another, illicitly transports or enables the transport of one or more migrants or other persons across the state border, or whoever creates, procures or possesses counterfeit travel or identity documents for that purpose, shall be punished by imprisonment for a term of between one and ten years.

(2) Whoever recruits, transports, hides, harbors or in any other way enables the stay of the smuggled persons in Bosnia and Herzegovina, shall be punished by imprisonment for a term of between six months and five years.

(3) If the criminal offense referred to in Paragraphs (1) and (2) of this Article is committed by an organized group or an organized criminal group, by the abuse of official authority or in such a manner which poses a threat to the life, health or safety of the persons smuggled, or if the smuggled persons were intended for exploitation or treated in another inhuman or degrading manner, the perpetrator shall be punished by imprisonment for a term of between three and fifteen years.

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<sup>17</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH" no. 61/04 on 29 December 2004, entered into force on 6 January 2005:

(4) The punishment referred to in Paragraph (3) of this Article shall also be imposed on whoever subjects an individual younger than 18 years of age to the offense referred to in Paragraphs (1) and (2).

(5) If the offense referred to in Paragraphs (1) and (2) of this Articles have caused 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) Items and conveyances used for the perpetration of the offense shall be seized.

**Organizing a Group or an Association for the Purpose of Perpetrating the Criminal Offenses of Human Trafficking and Smuggling of Migrants**

**Article 189a**

(1) Whoever organizes a group or another association for the purpose of perpetrating the criminal offenses referred to in Articles 186 (Trafficking in Persons) and 189 (Smuggling of Persons) of this Code,

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

(2) Whoever becomes a member of the group or another association referred to in Paragraph (1) of this Article or in any other way assists the group or the association,

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

(3) The provisions set forth in Article 250 (Organized Crime) of this Code shall apply to organizers or leaders and members of the organized group or another association that have perpetrated the criminal offenses referred to in Paragraph (1) of this Article.

**Torture and Other Cruel, Inhuman or Degrading Treatment**

**Article 190**

An official or another person who, acting upon the instigation or with the explicit or implicit consent of a public official person, inflicts on a person physical or mental pain or severe physical or mental suffering for such purposes as to obtain from him or a third person information or a confession, or to punish 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 discrimination of any kind,

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

**Taking of Hostages**

**Article 191**

(1) Whoever unlawfully confines, keeps confined or in some other manner deprives another person of the freedom of movement, or restricts it in some way, or seizes or detains and threatens to kill, to injure or to continue to detain as a hostage, with an aim to compel Bosnia and Herzegovina, ~~a~~ another state or an international intergovernmental organisation, to perform or to abstain from performing any act as an explicit or implicit condition for the release of a hostage, shall be punished by imprisonment for a term ~~between one and ten years~~ not less than three years.

(2) If, by the criminal offence referred to in paragraph 1 of this Article, the death of the hostage is caused, the perpetrator

shall be punished by imprisonment for a term 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 a hostage of his life intentionally, he shall be punished by imprisonment for a term not less than ten years or by the long-term imprisonment.

### **Endangering Internationally Protected Persons**

#### **Article 192**

(1) Whoever<sup>18</sup> unlawfully confines, keeps confined or in some other manner deprives an internationally protected person of the freedom of movement, or restricts it in some way, with the aim to force him or some other person to do or to omit or to bear something, or perpetrates some other violence against such a person or his liberty, his official premises, private accommodation or means of transportation likely to endanger his person or liberty, shall be punished by imprisonment for a term ~~between one and ten years~~ not less than three years.

(2) If the death of one or more people resulted from perpetration 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) 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 not less than ten years or the long-term imprisonment.

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

### **Illicit Trafficking in Arms and Military Equipment and Products of Dual Use<sup>19</sup>**

#### **Article 193**

(1) Whoever imports, exports, transits or mediates in trade of arms and military equipment without the license prescribed by the Law of Bosnia and Herzegovina or contrary to the 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 conduct the registration of the agreement regarding arms and military equipment pursuant to the Law of Bosnia and Herzegovina,

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<sup>18</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH" no. 61/04 on 29 December 2004, entered into force on 6 January 2005:

<sup>19</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH" no. 61/04 on 29 December 2004, entered into force on 6 January 2005:

shall be punished by imprisonment for a term ~~between one and ten years~~ 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 purpose, shall be punished by imprisonment for a term between one and five years.

(3) Whoever organizes a group of people with an aim of perpetrating the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term 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 between six months and five years.

(5) Whoever perpetrates the criminal offence referred to in paragraph 2 of this Article out of negligence, shall be punished by a fine or imprisonment for a term up to three years.

(6) Arms, military equipment, products of dual use, as well as the instruments used for their transit and trade/distribution shall be seized.

### **Forbidden Arms and Other Means of Combat<sup>20</sup>** **Article 193a**

(1) Whoever, contrary to the regulation of Bosnia and Herzegovina or rules of the international law, ~~is creating and improving, producing, purchasing, piling up or storing~~ creates and improves, produces, procures, piles up or stores, offers for sale or buys, intermediates in a purchase or sale or in some other way directly ~~or is directly transferring to someone else~~ or transfers directly to someone else, 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 between one and ten years.

(2) Whoever, in any way, uses 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 not less than five years or by the long-term imprisonment.

(3) Whoever uses anti-riot means as a waging a war method, shall be punished by imprisonment for a term between one and three years.<sup>21</sup>

(4) Whoever, at a 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, shall be punished by imprisonment for a term of not less than three years.

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<sup>20</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH" no. 61/04 on 29 December 2004, entered into force on 6 January 2005:

<sup>21</sup> OG BiH 55/06



(5) If, by the criminal offence referred to in paragraphs 1, 2 and 3<sup>22</sup> of this Article, the death of one or more persons is caused, or grave consequences for the health of people or animals or grave consequences for environment have occurred, the perpetrator shall be punished by imprisonment for a term of not less than five years or by the long-term imprisonment.

(6) Whoever military prepares the use of arms, means or methods referred to in paragraph 2 of this Article, shall be punished by imprisonment for a term up to three years.

(7) Chemical or biological weapon, or any other means for fighting is prohibited under the international law, and means for control of disturbance from this article, as well as means for their transportation and dissemination, shall be confiscated.

### **Illicit Trade in Chemicals Article 193.b**

(1) Whoever, without licence set forth in the Law on Implementation on the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and Their Destruction (hereafter: The Law on the ~~CWC~~ Convention Implementation), imports, exports, transports or acts as an intermediary in the sale or circulation of chemicals or whoever gives untrue information in the licencing proceedings under the Law on the ~~CWC~~ Convention Implementation,

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

(2) Whoever organises a group of people with the purpose of committing the criminal offence from paragraph 1 of this Article,

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

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

shall be punished by imprisonment for a term between six months and five years.<sup>23</sup>

(4) Chemicals from this article shall be confiscated.

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<sup>22</sup> OG BiH 55/06

<sup>23</sup> OG BiH 55/06

~~Activities in Contravention of the Regimes Set Forth in the Law on the CWC~~  
~~Implementation~~ **Activities Contrary to the Regimes 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**  
**Article 193.c**

- (1) Whoever takes actions in contravention of the regimes set forth for activities involving chemicals under List 1 and List 2 under the Law on the ~~CWC~~ Convention Implementation, shall be punished by a term of imprisonment of between one and five years.
- (2) Whoever takes actions in contravention of the regimes set forth for activities involving chemicals under List 3 under the Law on the ~~CWC~~ Convention Implementation, shall be punished by imprisonment for a term between one and three years.
- (3) Whoever ~~stockpiles~~ stores chemicals without a license set forth in the Law on the ~~CWC~~ Convention Implementation, shall be punished by a term of imprisonment of between six months and three years.<sup>24</sup>
- (4) Chemicals from paragraph 3 shall be confiscated.

**Illicit Procurement and Disposal of Nuclear Material**  
**Article 194**

- ~~(1) Whoever, without authorisation, uses, transports, stores, alters, disposes of or disperses, or whoever by use of force or by threatening an instant attack upon another person's life or limb, or in any other illegal way takes away nuclear material with the aim to unlawfully appropriate it, or with the same aim unlawfully appropriates nuclear material which has been entrusted to him, or with the same aim obtains nuclear material by deceiving someone through false representation or suppression of facts, or by keeping someone in deception, or by use of force or threat or by any other form of intimidation demands to receive nuclear material, or threatens to use it either in order to cause death or serious injury to any person or substantial property damage or gives such material to another person or enables another person to get in possession of it, shall be punished by imprisonment for a term between one and ten years.~~
- ~~(2) Whoever, by perpetrating acts referred to paragraph 1 of this Article, causes danger to human lives or property on a larger scale, shall be punished by imprisonment for a term not less than one year.~~
- ~~(3) The punishment referred to in paragraph 2 of this Article shall be imposed on whoever, in order to compel a State, international organisation or a natural or legal person to perform or abstain from performing an act, threatens to endanger the lives of people or property to a grater extent through the use of nuclear material.~~

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<sup>24</sup> OG BiH 55/06

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

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

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

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

~~(6) If the perpetration of the criminal offence referred to in paragraph 1 of this Article has resulted in death of one or more persons, or property damage on a larger scale, the perpetrator shall be punished by imprisonment for a term between one and ten years.~~

(1) Whoever, without authorization, procures, receives, hands over to another or enables another to get in possession of or possess, use, transport, process, store, dispose of or proliferate nuclear or other radioactive material or device,

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

(2) Whoever appropriates nuclear or other radioactive material or device by theft, fraud, use of force, threat or any other form of intimidation,

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

(3) Whoever, by perpetrating the acts referred to in Paragraphs (1) and (2) of this Article, causes risk to human lives or people's health or property or environment on a large scale,  
shall be punished by imprisonment for a term of not less than three years.

(4) If the perpetration of the criminal offense referred to in Paragraphs (1) through (3) of this Article has resulted in the death of one or more persons, or damage to property or environment on a large scale,

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

(5) If the criminal offense referred to in Paragraphs (1) and (3) of this Article is perpetrated by negligence,

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

(6) If the criminal offense referred to in Paragraph (4) of this Article is perpetrated by negligence,

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

(7) Whoever, in order to compel a state, international organization or a natural or legal person to perform or refrain from performing an act, threatens to endanger the lives of people or property on a large scale through the use of nuclear material,

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

(8) Nuclear or other radioactive material or device referred to in this Article and means for their transport shall be confiscated.

### **Endangering a Nuclear Facility**

#### **Article 194a**

(1) Whoever perpetrates an act aimed at obstructing the operation of a nuclear facility, or uses or damages a nuclear facility in the manner causing a risk of leakage of nuclear or other radioactive material,

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

(2) Whoever, by perpetrating the act referred to in Paragraph (1) of this Article, causes threat to human life or health or property or environment on a large scale,

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

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

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

(4) If the perpetration of the criminal offense referred to in Paragraphs (1) and (2) of this Article has resulted in the death of one or more persons, or damage to property or environment on a large scale,

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

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

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

(6) Whoever threatens to perpetrate the act 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 authorization performs an international sale or transfer or offers for such sale, or purchases, keeps, transports or transfers for the purpose of such sale, or intercedes in 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 ~~between one and ten years~~ at least three years.

(2) Whoever organizes a group of people with an 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 not less than ~~three~~ five years.

(3) Whoever without authorization makes, procures, intermediates or gives for use the equipment, material or substances knowing that they are to be used for the manufacturing of narcotic drugs, when it concerns the international transaction,

shall be punished by imprisonment ~~between six months and five years~~ one and ten years.

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

### **Piracy**

#### **Article 196**

(1) A crew member or a passenger on a vessel or an aircraft, which is not a military vessel or aircraft nor a public vessel or aircraft who, with an aim to secure for himself or for another some gain or to cause some damage to another, perpetrates on the open sea or in a place which is not under the rule of any state an 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 between one and ten years.

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

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

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

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

**~~Hijacking an Aircraft or a Ship~~ Hijacking an Aircraft or a Ship or Occupying a Fixed Platform**  
**Article 197**

(1) Whoever on board an aircraft in flight, ship or other vessel of any type or a fixed platform, by force or threat of force, or by any other form of intimidation, seizes, or exercises control of, that aircraft, ship or vessel,

shall be punished by imprisonment for a term 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 or vessel or a fixed platform, or some other pecuniary damage, the perpetrator

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

(3) If, in a 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 not less than ten years or by long-term imprisonment.

**Endangering the Safety of Air Traffic and Maritime Navigation or a Fixed Platform**  
**Article 198**

(1) Whoever performs violence against a person on board an aircraft in flight, 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 false information regarding the flight of the aircraft~~ communicates the information he knows is false, fails to discharge duties or supervision in relation to safety of the air traffic or perpetrates another act of violence, endangering thereby the safety of the flight,

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

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

~~(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, destroys a ship or vessel or causes damage to a ship, vessel or to its cargo, places or causes to be placed on a ship or vessel, by any means whatsoever, an explosive or other device or substance capable of destroying or damaging the ship, vessel or its cargo, destroys or damages maritime navigational facilities or interferes~~

~~with their operation, communicates false information about the voyage of the ship or the condition of the vessel, or perpetrates another act of violence, endangering thereby the safe navigation or the safety of the voyage of the ship or the safety of the vessel~~ The punishment referred to in Paragraph (1) of this Article shall be imposed on whoever performs violence against a person aboard a ship or a vessel or a fixed platform, destroys a ship or a vessel or a fixed platform, causes damage to a ship, a vessel or to its cargo or a fixed platform, places or causes to be placed on a ship or a vessel or a fixed platform, by any means whatsoever, an explosive or other device or substance capable of destroying or damaging the ship, the vessel or its cargo or the fixed platform, destroys or damages maritime navigational facilities or interferes with their operation, communicates the information he knows is false or perpetrates another act of violence, endangering thereby the safe navigation or the safety of the voyage of the ship or the safety of the vessel or the 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 paragraph 1 through 3 of this Article, the perpetrator shall be punished by imprisonment for a term not less than ten years or with long-term imprisonment.

(5) If death of one or more persons, or the destruction or extensive damage to an aircraft, ship or vessel or fixed platform or any other extensive pecuniary damage has been brought about as a result of any offence described in paragraph 1 through 3 of this Article, the perpetrator shall be punished by imprisonment for a term not less than five years.

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

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

### **Destruction and Removal of Signal Devices Utilised for Safety of the Air Traffic**

#### **Article 199**

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

### **Misuse of Telecommunication Signals**

#### **Article 200**

Whoever maliciously or needlessly transmits an internationally used 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 accepted telecommunication signal, shall be punished by imprisonment for a term 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 not less than ~~three~~ five years.

(2) If the death of one or more people resulted from perpetration 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~~ 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 not less than ten years or long-term imprisonment.

(4) Whoever procures or prepares the instruments or removes the obstacles or undertakes some other action thereby creating conditions for the perpetration of the criminal offence referred to in Paragraph (1) of this Article, shall be punished by imprisonment for a term between one and ten years.

~~(4)~~ (5) A *terrorist act*, in terms of this Article, means one of the following ~~intentional~~ acts which, given its nature or its context, may cause serious damage to a state or international organisation:

- a) Attack upon person's life, which may cause death;
- b) Attack upon the physical integrity of a person;
- c) Unlawful confinement of, keeping confined or in some other manner depriving another of the freedom of movement, or restricting it in some way, with the aim to force him or some other person to do or to omit or to bear something (kidnapping) or taking of hostages;
- d) Causing a great damage to facility of Bosnia and Herzegovina, facility of government of another state or 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) Kidnapping of aircraft, ships or other means of public or goods transport;
- f) Manufacture, possession, acquisition, transport, supply, use of or training for the use of weapons, explosives, nuclear, biological or chemical weapons or radioactive material, as well as research into, and development of, biological and chemical weapons or radioactive material;
- g) Releasing dangerous substances, or causing fire, explosion 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 perpetrate any of the acts referred to in items a) to h) of this paragraph.



## **Funding of Terrorist Activities**

### **Article 202**

~~Whoever by any means, directly or indirectly, provides or collects funds with the aim that they should be used or knowing that they are to be used, in full or in part, in order to perpetrate:~~

~~a) A criminal offence referred to in Article 191 (*Taking of Hostages*), 192 (*Endangering Internationally Protected Persons*), 194 (*Illicit Procurement and Disposal of Nuclear Material*), 196 (*Piracy*), 197 (*Hijacking an Aircraft or a Ship*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation*), 199 (*Destruction and Removal of Signal Devices Utilised for Safety of the Air Traffic*), 200 (*Misuse of Telecommunication Signals*) and 201 (*Terrorism*) of this Code;~~

~~b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel the authorities of Bosnia and Herzegovina or any other government or an international organisation to perform or to abstain from performing any act,~~

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

(1) Whoever by any means, directly or indirectly, provides or collects funds aiming to use them or knowing that they are to be used, in full or in part, in order to perpetrate:

a) A criminal offense 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 Occupying 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 Safety of the Air Traffic*), 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;

b) 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 perform or to refrain from performing any act,

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

(2) The collected funds designated for the perpetration of or generated through the perpetration of the criminal offense referred to in Paragraph (1) of this Article, shall be seized.

## **Public Incitement to Terrorist Activities**

### **Article 202a**

Whoever publically, on the mass media, disseminates or in any other way communicates a message to the public whose aim is to incite another to perpetrate any of the criminal offenses 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 Occupying a Fixed Platform*), 198 (*Endangering the Safety of Air Traffic and Maritime Navigation or Fixed*

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(In case of any issue regarding authenticity of text or translation, the local language version shall prevail)

Platforms), 199 (Destruction and Removal of Signal Devices Utilized for Safety of the Air Traffic), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202 (Funding of Terrorist Activities), 202b (Recruiting for Terrorist Activities), 202c (Training for Terrorist Activities), and 202d (Organizing a Terrorist Group) of this Code, 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 to perpetrate or participate or aide in the perpetration of or to join a terrorist group with the aim of perpetrating any of the criminal offenses 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 Occupying 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 Safety of the Air Traffic), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202 (Funding of Terrorist Activities), 202a (Public Inciting to Terrorist Activities), and 202c (Training for Terrorist Activities) of this Code, shall be punished by imprisonment for a term of not less than three years.

### **Training for Terrorist Activities**

#### **Article 202c**

(1) Whoever trains another person to make or use explosives, firearms or other weapons or harmful or hazardous substances or explosive devices or trains them to apply other specific methods, techniques or skills with the aim of perpetrating any of the criminal offenses 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 Occupying 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 Safety of the Air Traffic), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202 (Funding of Terrorist Activities), 202a (Public Inciting to Terrorist Activities), and 202b (Recruiting for Terrorist Activities) of this Code, 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 also be imposed on whoever provides resources for the training, or in any way renders available premises or other space with the knowledge that they would be used for the perpetration of the criminal offense referred to in Paragraph (1) of this Article.

### **Organizing a Terrorist Group**

#### **Article 202d**

(1) Whoever organizes a terrorist group or in another way brings together not less than three persons for the purpose of perpetration of any of the criminal offenses 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 Occupying 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 Safety of the Air Traffic), 200 (Misuse of Telecommunication Signals), 201 (Terrorism), 202 (Funding of Terrorist Activities), 202a (Public Inciting to Terrorist Activities), 202b (Recruiting for Terrorist Activities), and 202c (Training for Terrorist Activities) of this Code, 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 in any other way participates in the activities of a terrorist group, including 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 informs on the group before perpetrating a criminal offense as a member of the group or for the group, shall be punished by a fine or imprisonment for a term not exceeding three years, but may also be relieved from punishment.

### **Failure to Enforce Orders and Sentences of the International Criminal Tribunal Article 203**

An official person in the institutions of Bosnia and Herzegovina, entity institutions and the institution of the Brčko District of Bosnia and Herzegovina who refuses to act upon the order of international criminal tribunal to arrest or detain or extradite to the international criminal tribunal a person against whom the proceedings have been initiated before the international criminal tribunal or if he in any other way prevents enforcement of that order or who refuses enforcement of a legally valid and final sentence of the international criminal tribunal or if in any other way he prevents enforcement of such sentence, shall be punished by imprisonment for a term between one and ten years.

## **XVIII CHAPTER EIGHTEEN CRIMINAL OFFENCES AGAINST THE ECONOMY, MARKET INTEGRITY AND IN THE AREA OF CUSTOMS**

### **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 or 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 person to engage in the trade and sale of goods and services on the territory of the other entity or Brčko District of Bosnia and Herzegovina, or puts a business enterprise or another legal person in an unequal position in relation to other organisations regarding the conditions for work or turnover of goods and services, or restricts free exchange of goods and services among the entities and Brčko District of Bosnia and Herzegovina, shall be punished by imprisonment for a term between six months and five years.

## **Counterfeiting of Money**

### **Article 205**

- (1) Whoever makes false money with an aim of bringing it into circulation as genuine, or whoever alters genuine money with an aim of bringing it into circulation, or whoever brings such counterfeit money into circulation, shall be punished by imprisonment for a term 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 an 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 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 punished by a fine or imprisonment for a term not exceeding one year.
- (5) Counterfeit money shall be forfeited.

## **Counterfeiting of Securities**

### **Article 206**

- (1) Whoever makes false securities issued pursuant to the regulation of Bosnia and Herzegovina with an aim of bringing them into circulation as genuine, or whoever alters such genuine securities with an aim of bringing them into circulation, or whoever brings such counterfeit securities into circulation, shall be punished by imprisonment for a term 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 forfeited.

## **Counterfeiting of Instruments of Value**

### **Article 207**

- (1) Whoever makes false tax or mail stamps or other instruments of value issued pursuant to the regulation of Bosnia and Herzegovina, or whoever alters some of these genuine instruments of value with an aim to use them as genuine or to let another person use them, or whoever uses such counterfeit instruments of value as genuine or procures them with such an aim, shall be punished by a fine or imprisonment for a term not exceeding three years.
- (2) If the instruments of value referred to in paragraph 1 of this Article are of larger value, the perpetrator shall be punished by imprisonment for a term 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 punished by a fine or imprisonment for a term not exceeding three years.

(4) Counterfeit instruments of value shall be forfeited.

### **Forgery of Trademarks, Measures and Weights**

#### **Article 208**

(1) Whoever, with an aim to use 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 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 forfeited.

### **Money Laundering**

#### **Article 209**

(1) Whoever accepts, exchanges, keeps, disposes of, uses in commercial or other activity, otherwise conceals or tries to conceal money or property he knows was acquired through perpetration of criminal offence, when such a money or property is of larger value or when such an act endangers the common economic space of Bosnia and Herzegovina or has detrimental consequences to the operations or financing of institutions of Bosnia and Herzegovina, shall be punished by imprisonment for a term between ~~six months and five years~~ one and eight years.

(2) If the perpetrator of the act referred to in Paragraph (1) is also a perpetrator of or an accomplice to the criminal offense whose perpetration resulted in the money or property gain referred to in the previous Paragraph, the perpetrator shall be punished by imprisonment for a term between one and ten years.

~~(2)~~(3) If the money or property gain referred to in paragraphs 1 of this Article exceeds the amount of ~~50.000~~ 200,000 KM, the perpetrator shall be punished by imprisonment for a term ~~between one and ten years~~ not less than three years.

~~(3)~~(4) If the perpetrator, during the perpetration of the criminal offences referred to in paragraphs 1 and 2 of this Article, acted negligently with respect to the fact that the money or property gain has been acquired through perpetration of criminal offence, he shall be punished by a fine or imprisonment for a term not exceeding three years.

~~(4)~~(5) The money and property gain referred to in paragraph 1 through ~~3~~ 4 shall be forfeited.

### **~~Tax Evasion~~**

#### **~~Article 210~~**

~~(1) Whoever evades payment of amounts required under the legislation of Bosnia and Herzegovina on taxes or social contributions by not submitting required information, or by submitting false information on acquired taxable income or on other facts which may effect the~~

~~determination of the existence or the amount of such obligation, and the obligation that is evaded exceeds the amount of 10.000 KM,~~

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

~~(2) Whoever perpetrates the offence referred to in paragraph 1 of this Article and the evaded obligation exceeds the amount of 50.000 KM,~~

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

~~(3) Whoever perpetrates the offence referred to in paragraph 1 of this Article and the evaded obligation exceeds the amount of 200.000 KM,~~

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

### **Tax Evasion or Fraud**

#### **Article 210**

(1) Whoever evades the payment of duties required under the tax legislation of Bosnia and Herzegovina by failing to submit the required information, or by providing false information on the taxable income earned or on the other facts relevant to the determination of the amount of the tax liabilities, provided that the obligation that is evaded exceeds the amount of 10,000 KM, 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 also be imposed on whoever, with the aim of exercising the right to a refund or indirect tax credit required under the tax legislation of Bosnia and Herzegovina, files a tax return with false information on the amount of refund or indirect tax credit that exceeds 10,000 KM.

(3) Whoever perpetrates the offense referred to in Paragraph (1) of this Article provided that the evaded obligation exceeds the amount of 50,000 KM, or whoever perpetrates the offense referred to in Paragraph (2) of this Article provided that the requested refund or indirect tax credit exceeds the amount of 50,000 KM, shall be punished by imprisonment for a term between one and ten years.

(4) Whoever perpetrates the offense referred to in Paragraph (1) of this Article provided that the evaded obligation exceeds the amount of 200,000 KM, or whoever perpetrates the offense referred to in Paragraph (2) of this Article provided that the requested refund or indirect tax credit exceeds the amount of 200,000 KM, shall be punished by imprisonment for a term of not less than three years.

### **Illicit Trade in Excise Goods**

#### **Article 210a**

(1) Whoever unlawfully manufactures, trades in, or sells products not marked with control and tax stamps in the manner required by the tax legislation of Bosnia and Herzegovina, shall be punished by imprisonment for a term between six months and five years.

(2) The products referred to in Paragraph (1) of this Article shall be seized.

### **Unlawful Storage of Goods**

#### **Article 210b**

(1) Whoever stores the goods taxable under the tax legislation of Bosnia and Herzegovina on the premises not registered for that purpose in accordance with the law, or whoever allows for goods

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to be stored on his premises that are not registered for that purpose, shall be punished by a fine or imprisonment for a term not exceeding three years.

(2) The punishment referred to in Paragraph (1) of this Article shall also be imposed on whoever, on the premises registered for storing goods in accordance with the law, stores the goods taxable under the tax legislation of Bosnia and Herzegovina which are not accompanied by the required documentation on the origin and the taxes paid."

### **Failure to Pay Taxes**

#### **Article 211**

~~A person who fails to pay tax obligations in accordance with a tax legislation of Bosnia and Herzegovina, shall be punished by a fine or imprisonment for a term not exceeding three years.~~

(1) Whoever, by transfer or misappropriation of property, closure of an enterprise or in another way, prevents collection of the declared tax required by tax legislation of Bosnia and Herzegovina, provided that the obligation that is evaded exceeds the amount of 50,000 KM, shall be punished by a fine or imprisonment for a term not exceeding three years.

(2) Whoever perpetrates the offense referred to in Paragraph (1) of this Article provided that the evaded tax exceeds the amount of 100,000 KM, shall be punished by imprisonment for a term between one and ten years.

(3) Whoever perpetrates the offense referred to in Paragraph (1) of this Article provided that the evaded tax exceeds the amount of 200,000 KM, shall be punished by imprisonment for a term of not less than three years.

(4) If the perpetrator pays the liabilities referred to in Paragraphs (1), (2) and (3) of this Article, he may be relieved from 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, and if, by such an act, some other criminal offence for which a more severe punishment is prescribed has not been perpetrated, shall be punished by imprisonment for a term between one and ten years.

(2) Items and goods referred to in paragraph 1 of this Article shall be forfeited.

### **Illicit Manufacturing**

#### **Article 213**

(1) Whoever manufactures or processes items or goods whose production is forbidden pursuant to the regulations made by the institutions of Bosnia and Herzegovina or international law, if by such an act some other criminal offence for which a more severe punishment is prescribed has not been perpetrated, shall be punished by a fine or imprisonment for a term not exceeding one year.

(2) Items and goods referred to in paragraph 1 of this Article and means for its' manufacturing or processing shall be forfeited.



### **Smuggling of Goods**

#### **Article 214**

- (1) Whoever, by avoiding measures of customs control, moves across the customs line goods of larger value, or whoever, by avoiding measures of customs control, is engaged in moving goods across the customs line, shall be punished by a fine or imprisonment for a term not exceeding three years.
- (2) Whoever, without appropriate approval, avoiding custom control measures, moves across the customs line goods the export or import of which is prohibited, limited or demands special approval or approval of an authorised body, shall be punished by imprisonment for a term between six months and five years.
- (3) If by the criminal offence referred to in paragraph 1 and 2 the objects, goods or substances dangerous for life or health of people or which represent danger for public security, have been transferred through the custom line, or if the criminal offence has been perpetrated by the use of weapons, force or threat, the perpetrator shall be punished by imprisonment for a term between one and ten years.
- (4) ~~The goods referred to in paragraphs 1 through 3 of this Article shall be forfeited.~~ Goods, substances and other objects from paragraph 1 to 3 shall be confiscated.
- (5) The means of transportation the secret or hidden compartments of which were used for transporting the smuggled goods referred to in paragraphs 1 through 3 of this Article, or which had been intended for the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, shall be forfeited if the proprietor or user of the ~~vehicle~~ mean of transport knew, could have known 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 organizes a group or other association for organized smuggling or a network or middleman or mediators for the sale or distribution of goods, on which the duties were not paid, shall be punished by imprisonment for a term not less than three years.
- (2) Whoever becomes a member of the group or association from the previous paragraph, shall be punished by imprisonment for a term not less than one year.

### **Customs fraud**

#### **Article 216**

- (1) Whoever, with the aim that he or another person avoids the payment of duties, or other obligations that should be paid when importing goods the amount of which exceeds 5.000 KM, makes or submits to the custom authority a false custom chart, certificate or another false document, shall be punished by a fine or 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 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 not less than three years.

## **XIX CHAPTER NINETEEN CRIMINAL OFFENCES OF CORRUPTION AND CRIMINAL OFFENCES AGAINST OFFICIAL DUTY OR OTHER RESPONSIBLE DUTY**

### **Accepting Gifts and Other Forms of Benefits 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, 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 powers an act, which ought not to be performed by him, or for the omission of an act, which ought to be performed by him, shall be punished by imprisonment for a term 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, 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 powers an act, which ought to be performed by him, or for the omission of an act, which ought not to be performed by him, shall be punished by imprisonment for a term 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, who demands or accepts a gift or any other benefit for himself or another person following the performance or omission of an official act referred to in paragraphs 1 and 2 of this Article and in relation to it.

(4) The gifts or any other benefits shall be forfeited.

### **Giving Gifts and Other Forms of Benefits Article 218**

(1) Whoever gives or promises a gift or any other benefit to an official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person or an international official, in order that he performs within the scope of his official powers of an act, which ought not to be performed by him, or abstains from performing of an act which 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 between six months and five years.

(2) Whoever gives or promises a gift or any other benefit to an official or responsible person in the institutions of Bosnia and Herzegovina including also a foreign official person or an international official, in order that he performs within the scope of his official powers an act, which ought to be performed by him, or abstains from performing of an act, which ought not to be performed by him, shall be punished by a fine or imprisonment for a term not exceeding three years.

(3) The perpetrator of the criminal offence referred to in paragraph 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, but reported the deed before it being discovered or before knowing that the deed has been discovered, may be released from punishment.

(4) The gifts or any other benefits shall be forfeited, while in case referred to in paragraph 3 of this Article, they can be returned to the giver.

### **Illegal Interceding Article 219**

(1) Whoever accepts a reward or any other benefit for interceding that an official act be or not be performed, taking advantage of his official or influential position in the institutions of Bosnia and Herzegovina,

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

(2) Whoever by taking advantage of his official or influential position in the institutions of Bosnia and Herzegovina, intercedes that an official act be performed, which ought not to be performed, or that an official act be not performed, which ought to be performed, shall be punished by imprisonment for a term between six months and five years.

(3) If a reward or any other benefit has been received in return for the criminal offence referred to in paragraph 2 of this Article, the perpetrator

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

(4) Any received reward or some other benefit shall be confiscated.

### **Abuse of Office or Official Authority Article 220**

(1) An official or responsible person in the Bosnia and Herzegovina institutions 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 a benefit to himself or to another person, or causes damage to another person or seriously violates the rights of another, shall be punished by imprisonment for a term between six months and five years.

(2) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 10.000 KM, the perpetrator shall be punished by imprisonment for a term between one and ten years.

(3) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 50.000 KM the perpetrator shall be punished by imprisonment for a term of not less than three years.

### **Embezzlement in Office Article 221**

(1) Whoever, with an aim of acquiring unlawful property gain for himself or another, appropriates money, securities or other movable entrusted to him by virtue of his office in the institutions of Bosnia and Herzegovina, or of generally his position within the institutions of Bosnia and Herzegovina,

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

(2) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 10.000 KM, the perpetrator shall be punished by imprisonment for a term between one and ten years.

(3) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 50.000 KM, the perpetrator shall be punished by imprisonment for a term not less than three years.

(4) Money, securities or other mobile items as well as gained benefit shall be confiscated.

### **Fraud in Office Article 222**

(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who, with an aim of acquiring an unlawful property gain 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 between six months and five years.

(2) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 10.000 KM, the perpetrator shall be punished by imprisonment for a term between one and ten years.

(3) If a property gain acquired by the perpetration of the criminal offence referred to in paragraph 1 of this Article exceeds the amount of 50.000 KM, the perpetrator shall be punished by imprisonment for a term not less than three years.

(4) Gained benefit in property shall be confiscated.

### **Using Property of the Office Article 223**

Whoever makes an unauthorised use of money, securities or other movable entrusted to him by virtue of his office in the institutions of Bosnia and Herzegovina, or service in the institutions of Bosnia and Herzegovina generally or without authorisation confers these things to another person for unauthorised use, shall be punished by imprisonment for a term 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, being aware of what he or she is doing, breaches law or other regulations or general acts, fails to exercise due supervision or in any other way manifestly acts in a clearly unconscientious manner in the discharge of his official duties, and 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 ~~a fine or imprisonment for a term not exceeding three years~~ imprisonment for a term between three months and five years.

(2) If a serious violation of another man'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 between ~~six months and five years~~ one and ten years.

(3)<sup>25</sup>

### **Forging of Official Document 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 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 in excess of what he is obligated to pay, or who delivers or pays less than required during a payment or a delivery, shall be punished by a fine or 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 frees another person detained and entrusted to him, or who aids his escape, or enables illegal connection or correspondence the purpose of which is preparation of escape, shall be punished by imprisonment for a term between ~~six months and five years~~ one and ten years.

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<sup>25</sup> OG BiH 53/06

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**Unlawful Appropriation of Objects while Searching or Carrying out an Enforcement Order**  
**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 order, takes a movable object with an aim of obtaining illegal material benefit for himself or another, shall be punished by imprisonment for a term between one and ten years.

**XX CHAPTER TWENTY**  
**CRIMINAL OFFENCES AGAINST ADMINISTRATION OF JUSTICE**

**Failure to Inform of a Criminal Offence or a Perpetrator**  
**Article 230**

(1) Whoever, having knowledge of the identity of the perpetrator of a criminal offence for which a punishment of long-term imprisonment can be imposed under the law of Bosnia and Herzegovina, or whoever having merely knowledge of the perpetration of such an offence, fails to report the fact, although the timely discovery of the perpetrator of the offence depends on such report,

shall be punished by a fine or 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 inform of a criminal offence he has discovered while performing his duties, if for the offence a punishment of imprisonment for a term of five years or a more severe punishment can be imposed under the law of Bosnia and Herzegovina.

(3) No punishment for failure to inform of 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 Inform of 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 indictment, fails to report such whereabouts, although the timely discovery of the wanted person depends on such report, shall be punished by imprisonment for a term not exceeding three years.

(2) No punishment for the failure to inform of 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 indicted person.

**Failure to Inform of the Location of a Mass Grave**

**231a<sup>26</sup>**

Whoever knows for the place where the ~~mass grave~~ **location of a mass grave** is, and fails to report that, 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 convicted person or takes steps towards frustrating the execution of punishment, imposed security measure or institutional correctional measure prescribed by the law of Bosnia and Herzegovina,

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

(2) Whoever renders assistance to the perpetrator of a criminal offence for which a punishment of imprisonment of three years or a more severe punishment may be imposed under the law of Bosnia and Herzegovina,

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

(3) Whoever renders assistance to the perpetrator of a criminal offence for which a punishment of long-term imprisonment is prescribed by the law of Bosnia and Herzegovina,

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

(4) The imposed 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 a criminal offence in respect of which accessory after the fact took place.

(5) No punishment shall be imposed for the criminal offence referred to in paragraph 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 indicted person.

**Accessory to a Person Indicted by the International Criminal Tribunal**

**Article 233**

(1) Whoever renders assistance to, or hides a person indicted by the international criminal tribunal or aids him to elude discovery,

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<sup>26</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH 30/05" on 17 May 2005, entered into force on 25 May 2005:

"Article 1

... after Article 231 to insert new Article 231a to read as follows:

'Whoever knows ... ' . "



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 indicted person.

### **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 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 whom he knows not to be the perpetrator.

(3) Whoever charges himself with the perpetration of a criminal offence prescribed by the law of Bosnia and Herzegovina, although not being the perpetrator of that criminal offence, shall be punished by a fine or 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 although he know 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 in court, minor offence, administrative or disciplinary proceedings before the institutions of Bosnia and Herzegovina,

shall be punished by a fine or 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 in presentation of evidence by hearing a party in a civil action or administrative proceedings before the institutions of Bosnia and Herzegovina, if the decision is based on such testimony.

(3) If the false statement has been made in the course of criminal procedure, the perpetrator shall be punished by imprisonment for a term between six months and five years.

(4) If particularly grave consequences for the accused occur 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 between one and ten years.

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

shall be punished by a fine or imprisonment for a term not exceeding six months, but may be released from punishment.

### **Tampering With Evidence** **Article 236**

- (1) Whoever makes a witness or a court witness give a false testimony in court, minor offence, administrative or disciplinary proceedings before the institutions of Bosnia and Herzegovina by use of threat or any other form of force or promise of a gift or some other benefit, shall be punished by imprisonment for a term between six months and five years.
- (2) Whoever, with the aim of preventing or hampering the collection of evidence in court, minor offence, administrative or disciplinary proceedings before the institutions of Bosnia and Herzegovina, conceals, destroys, damages or renders unserviceable, someone else's object or documents that may be used as evidence, shall be punished by a fine or imprisonment for a term not exceeding three years.

### **Breach of Secrecy of Proceedings** **Article 237<sup>27</sup>**

- (1) Whoever without authorisation reveals to another a fact or instrument which contains information and in the possession of which he came out of investigative, court, minor offence or administrative procedure before the institutions of Bosnia and Herzegovina, which must not be disclosed according to the law or has been classified as secret data by a decision of the Court of Bosnia and Herzegovina or by a decision of an authorised person, shall be punished by ~~a fine or imprisonment for a term not exceeding one year~~ 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 and in the possession of which he came out of investigative, court, minor offence or administrative procedure before the institutions of Bosnia and Herzegovina, which must not be disclosed according to the law or has been classified as secret data by a decision of the Court of Bosnia and Herzegovina or by a decision of an authorised person, shall be punished by ~~a fine or imprisonment for a term not exceeding three years~~ <sup>28</sup> imprisonment for a term 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 or the Human Rights Chamber~~, who, with the aim of benefiting another, or harming another, passes an illegal act or otherwise violates the law in the performing of his official duties, shall be punished by imprisonment for a term between six months and five years.

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<sup>27</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH" no. 61/04 on 29 December 2004, entered into force on 6 January 2005

<sup>28</sup> OG BiH 53/06

~~**Failure to Enforce Decisions of the Constitutional Court of Bosnia and Herzegovina, Court of Bosnia and Herzegovina and Human Rights Chamber**~~ **Failure to Enforce Decisions of the Constitutional Court of Bosnia and Herzegovina, Court of Bosnia and Herzegovina, Human Rights Chamber and 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 or Court of Bosnia and Herzegovina or Human Rights Chamber of Bosnia and Herzegovina or European Court of Human Rights, or if he prevents enforcement of such a decision, or if he prevents the enforcement of the decision in some other way, shall be punished by imprisonment for a term between six months and five years.

**Disclosure of Identity of a Protected Witness<sup>29</sup>**

**Article 240**

- (1) Whoever without authorisation discloses, delivers or takes another action with an aim of revealing data on the identity or information which can lead to the discovery of the identity of a person who has given or is about to give evidence before the institutions of Bosnia and Herzegovina, and which must not be disclosed according to the law or has been declared a secret data by a decision of the Court of Bosnia and Herzegovina or by an authorised person<sup>30</sup>, shall be punished by imprisonment for a term between three months and three years.
- (2) A judge of the Court of Bosnia and Herzegovina or other official person who makes available to an unauthorised person data or information referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term 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 data or information referred to in paragraph 1 of this Article.
- (4) Whoever, having accidentally obtained revealed, but not publicised data or information referred to in paragraph 1 of this Article, communicates or renders accessible this data or information, knowing of their nature, shall be punished by a fine or 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 a source and manner of obtaining data or information referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term 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 a source and manner of obtaining data or information referred to in paragraph 1 this Article,

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<sup>29</sup> Law on amendments to the Criminal Code of Bosnia and Herzegovina as adopted by Parliament of Bosnia and Herzegovina, published in "Official Gazette of BiH" no. 61/04 on 29 December 2004, entered into force on 6 January 2005

<sup>30</sup> OG BiH 53/06

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

### **Obstruction of Justice** **Article 241**

(1) Whoever uses physical force, threats or intimidation or the promise, offering or giving of undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a criminal proceedings conducted pursuant to the law of Bosnia and Herzegovina,

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

(2) Whoever uses physical force, threats or intimidation to interfere with the exercise of official duties by a judge, prosecutor or law enforcement official person in relation to a criminal proceedings conducted pursuant to the law of Bosnia and Herzegovina,

shall be punished by imprisonment for a term ~~between one and ten years~~ not less than three years.

### **Obstructing an Official Person in Execution of Official Duty** **Article 241a**

(1) Whoever, by force or threat of immediate use of force, prevents an official person in the institutions of Bosnia and Herzegovina from performing an official act falling within the scope of his authority or, by using the same means, coerces him to perform an official act,  
shall be punished by imprisonment for a term between three months and three years.

(2) If, by the criminal offense referred to in Paragraph (1) of this Article, the official person is maltreated or a minor bodily injury is inflicted upon him, or the criminal offense has been perpetrated by threatening to use weapons,

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

(3) Whoever perpetrates the criminal offense referred to in Paragraphs (1) and (2) of this Article against an official person carrying out the work related to the security of Bosnia and Herzegovina, to the apprehension of perpetrators of criminal offenses or to the guarding of confined persons,

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

(4) If the perpetrator of the criminal offense referred to in Paragraphs (1) through (3) of this Article has been provoked by illegal or rude treatment on the part of the official person,  
he may be relieved of punishment.

### **Attack against an Official Person while Carrying out Security Work, Discovering or Apprehending Perpetrators of Criminal Offenses** **Article 241b**

(1) Whoever attacks or seriously threatens to attack an official person of the institutions of Bosnia and Herzegovina or a person who assists an official person in carrying out work related to the security of Bosnia and Herzegovina, discovering or apprehending perpetrators of criminal offenses or to the guarding of confined persons,

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

(2) If, by the criminal offense referred to in Paragraph (1) of this Article, a minor bodily injury is inflicted upon the official person or upon the person who assists him, or if the criminal offense referred to in Paragraph (1) of this Article is perpetrated with the threat to use weapons, the perpetrator shall be punished by imprisonment for a term between six months and five years.  
(3) If, by the criminal offense referred to in Paragraph (1) of this Article, a serious bodily injury is inflicted upon the official person or upon the person who assists him, the perpetrator shall be punished by imprisonment for a term between one and ten years.  
(4) If the perpetrator of the criminal offense referred to in Paragraphs (1) through (3) of this Article has been provoked by illegal or rude treatment on the part of the official person or the person who assists him, he may be relieved of punishment.

## **XXI CHAPTER TWENTY – ONE**

### **CRIMINAL OFFENCES OF COPYRIGHTS VIOLATION**

#### **Breaches of Copyrights**

#### **Article 242**

(1) Whoever, under his own or a name of another, publishes, shows, performs, transmits or in another way communicates to the public someone else's creation which in accordance with the law of Bosnia and Herzegovina is considered as a copyright protected product or approves this to be done, shall be punished by a fine or 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 in another way communicates to the public someone else's creation referred to in paragraph 1 of this Article on which the name and pseudonym of the author is designated, or incorporates in an unauthorized way parts of someone else's creation referred to in paragraph 1 into his own copy right protected product or approves this to be done.

(3) Whoever destroys, distorts or damages or in another way, without permission of the author changes someone else's creation referred to in paragraph 1 of this Article, shall be punished by a fine or imprisonment for a term not exceeding three years.

(4) The punishment referred to in paragraph 1 of this Article shall be imposed on whomever, without indicating the name or pseudonym of the performer of art, unless the performer of art wishes to stay anonymous, publishes, shows, performs, transmits or in another way communicates to the public his artistic performance.

(5) The punishment referred to in paragraph 3 of this Article shall be imposed on whomever destroys, distorts, damages, mutilates or in another way alters, without permission of the artistic performer, the recorded performance of the artist performer.

(6) If by the criminal offence referred to in paragraph 1 through 5 of this Article a substantial property gain has been obtained or considerable damage done, whereas the perpetrator has acted with a view to obtaining such property gain or causing such damage, the perpetrator shall be punished by imprisonment for a term between six months and five years.

### **Impermissible Use of Copyrights**

#### **Article 243**

(1) Whoever, without the authorisation of the author or other holder of copyright, or the person entitled to give authorisation, where such authorisation is required under the provisions of 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 uses the in any other form the work of an author,

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

(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whomever, without the authorisation of the performer of art or the person entitled to give authorisation, where such authorisation is required under the provisions of 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 uses his performance in another way.

(3) The punishment referred to in paragraph 1 of this Article shall be imposed on whomever, with an aim of facilitating the unauthorised use of the author's work or the performer's of art performance produces, imports, brings across the state border, distributes, rents or allows to others the use and exploitation of 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 that is used for protection of the author's and performer's of art rights against unauthorised use.

(4) A person in whose possession the objects intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraph 1 through 3 of this Article, are found, and who knew, might have known or ought to have known about it,

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

(5) If the perpetration of the criminal offence referred to in paragraph 1 through 3 of this Article has resulted in a substantial financial gain or has caused a 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 between six months and five years.

(6) Objects intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraph 1 through 3 of this Article shall be forfeited and destroyed.

### **Illegal Use of the Sound Recording Producers' Rights**

#### **Article 244**

(1) Whoever, without the authorisation of the producer of a sound recording, where such authorisation is required under the provisions of 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 punished by a fine or imprisonment for a term not exceeding one year.

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(2) The punishment referred to in paragraph 1 of this Article shall be imposed on whomever, without the authorisation of the holder of the right with regard to the radio broadcast shows, where such authorisation is required under the provisions of 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 paragraph 1 and 2 of this Article has resulted in a substantial financial gain or has caused a substantial damage, and the perpetrator has acted with an aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by imprisonment for a term between six months and five years.

(4) The objects intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraph 1 through 3 of this Article shall be forfeited and destroyed.

### **Illegal 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 primarily for decoding an encrypted satellite signal, shall be punished by a fine or 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 a 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 between six months and five years.

(3) Objects intended or used for the perpetration of the criminal offence or resulting from the perpetration of the criminal offence referred to in paragraph 1 and 2 of this Article shall be forfeited and destroyed.

### **Illegal 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 reasons to know that such a signal is decoded without authorisation, shall be punished by a fine or 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 punished by a fine or imprisonment for a term not exceeding three years.



**XXI A CHAPTER TWENTY – ONE<sup>31</sup>**  
**CRIMINAL OFFENCES AGAINST the ARMED FORCES OF BOSNIA AND**  
**HERZEGOVINA**

**Failure and Refusal to Execute an Order**  
**Article 246.a**

- (1) A military person who fails or refuses to execute an order of a superior given in the line of duty, and thereby the impossibility of conducting the service or the more difficult conduct of service or the danger for human lives or for property of a high value occurs, 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 to their call or fails to execute or refuses to execute their order, shall be punished by a fine or imprisonment for a term not exceeding one year.
- (3) If, by the criminal offence referred to in paragraph 1 and 2 of this Article, extremely serious consequences for military service are caused, the perpetrator shall be punished by imprisonment for a term 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 punished by a fine or 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 is 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 released from punishment.

**Refusal to Receive and Use Arms**  
**Article 246.b**

A military person who, contrary to regulations and without justified reason, refuses to accept arms or to use arms as ordered or pursuant to the rules of service, shall be punished by imprisonment for a term between one and five years.

**Resisting a Superior**  
**Article 246.c**

- (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 between three months and five years.
- (2) If the criminal offence referred to in paragraph 1 of this Article is perpetrated in an organised

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manner, the perpetrator

shall be punished by imprisonment for a term between two and eight years.

(3) A military person who in the perpetration of criminal offence referred to in paragraph 1 and 2 of this Article uses arms,

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

(4) Whoever organizes or directs at any level the perpetration of criminal offence referred to in paragraph 1 through 3 of this Article,

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

(5) A military superior that participates in the perpetration of criminal offence referred to in paragraph 1 through 3 of this Article,

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

(7) A military person who in perpetrating the criminal offence referred to in paragraph 3 of this Article deprives another person of life with intent,

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

(8) The perpetrator of the criminal offence referred to in paragraph 1 of this Article, who is provoked by the illegal or irregular conduct of the superior, may be punished less severely or released from punishment.

#### **Violation of Sentry, Guard, Patrol or Other Similar Duty Article 246.d**

(1) A military person who acts contrary to the regulations on sentry, guard, patrol or other similar duty, thus causing serious harmful consequences for the service or imperilling seriously 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 nearby arms or military equipment depots or depots of explosive substances, or nearby other important installations,

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

(3) If, by the criminal offence referred to in paragraphs 1 and 2 of this Article, a serious bodily injury is inflicted upon a person, or a material damage on a large scale is caused, or if other serious consequences occurred, the perpetrator

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

(4) If, by the criminal offences referred to in paragraphs 1 and 2 of this Article, a person is deprived of life, the perpetrator

shall be punished by imprisonment for a term 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:

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, by the criminal offence referred to in paragraph 5 of this Article, the consequence referred to in paragraph 3 or 4 of this Article is caused, the perpetrator shall be punished by imprisonment for a term between three months and five years.

#### **Coercion against a Military Person Discharging Official Duty Article 246.e**

(1) Whoever, by force or threat of immediate use of force, prevents a military person in the execution of official duty, or coerces a military person in the same way to execute an official duty,

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

(2) Whoever, in the perpetration of 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 between three months and three years.

(3) Whoever in the perpetration of criminal offence referred to in paragraph 1 and 2 of this Article uses arms, shall be punished by imprisonment for a term between six months and five years.

(4) The perpetrator of criminal offence referred to in paragraph 1 of this Article, who is provoked by the illegal or irregular conduct of the military person, may be punished less severely or released from punishment.

#### **Assault against a Military Person Discharging Official Duty Article 246.f**

(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, by the criminal offence referred to in paragraph 1 of this Article, a slight bodily injury is inflicted upon 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 between three months and three years.

(3) If, by the criminal offence referred to in paragraph 1 of this Article, a serious bodily injury is inflicted upon a military person, or serious consequences for service are caused, the perpetrator shall be punished by imprisonment for a term 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 not less than ten years or by long-term imprisonment.

(5) The perpetrator of the criminal offence referred to in paragraph 1 and 2 of this Article, who is provoked by the illegal or irregular conduct of the military person, may be punished less severely or released from punishment.

**Maltreatment of a Subordinate or a Military Person of Lower Rank**  
**Article 246.g**

- (1) A military superior who in the line of duty or in connection with 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 a number of persons, shall be punished by imprisonment for a term not exceeding five years.

**Submitting Untrue Reports and Accounts**  
**Article 246.h**

- (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 he suppresses a fact which he should not suppress, thus causing serious harmful consequences for the service or imperilling seriously the service, and thereby endangers human lives or property of great value, shall be punished by a fine or 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 extremely harmful consequences are caused, the perpetrator shall be punished by imprisonment for a term between six months and five years.
- (3) Whoever perpetrates the criminal offence referred to in paragraph 2 of this Article by negligence, shall be punished by a fine or imprisonment for a term not exceeding one year.

**Failure to Take Measures for the Protection of a Military Unit**  
**Article 246.i**

- (1) A military superior who fails to undertake prescribed, ordered or other obviously needed measures for the protection of lives and health of people entrusted to him, for the security and maintenance of installations, objects and means 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 endangers human lives or seriously imperils the health of people or property of great value, shall be punished by imprisonment for a term between three months and three years.
- (2) If, by the criminal offence referred to in paragraph 1 of this Article, a serious bodily injury is inflicted upon a person, or a material damage on a large scale or other serious consequences are caused, the perpetrator shall be punished by imprisonment for a term between six months and five years.
- (3) If, by the criminal offence referred to in paragraph 1 of this Article, a death of a person or several persons is caused, the perpetrator shall be punished by imprisonment for a term 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 punished by a fine or imprisonment for a term not exceeding one year.

(5) If, by the criminal offence referred to in paragraph 4 of this Article, the consequences referred to in paragraph 2 of this Article are caused, the perpetrator

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

(6) If, by the criminal offence referred to in paragraph 4 of this Article, the consequence referred to in paragraph 3 of this Article is caused, the perpetrator

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

### **Deficient Protective Measures at Military Exercises**

#### **Article 246.j**

(1) A military person who fails to undertake prescribed, ordered or obviously needed safety or precautionary measures during exercises, training courses or in the course of conducting experiments, and thereby endangers human lives or seriously imperils the health of people or property of great value,

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

(2) If, by the criminal offence referred to in paragraph 1 of this Article, a serious bodily injury is inflicted upon a person, or a material damage on a large scale or other serious consequences are caused, the perpetrator

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

(3) If, by the criminal offence referred to in paragraph 1 of this Article, a death of a person or several persons is caused, the perpetrator

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

(5) If, by the criminal offence referred to in paragraph 4 of this Article, the consequences referred to in paragraph 2 of this Article are caused, the perpetrator

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

(6) If, by the criminal offence referred to in paragraph 4 of this Article, the consequence referred to in paragraph 3 of this Article is caused, the perpetrator

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

### **Irregular or Careless Attitude toward Entrusted Arms or Military Equipment**

#### **Article 246.k**

(1) Whoever irregularly or carelessly keeps, stores or handles arms or military equipment entrusted to him and belonging to a military unit or military institution, and thereby causes substantial damage to these items or their destruction or disappearance,

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

(2) A person in charge of a depot of means of combat, arms or military equipment who fails to take measures towards their protection or maintenance, causing thereby substantial damage, destruction or disappearance of these items,

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

(3) If, by the criminal offence referred to in paragraph 2 of this Article, the extensive damage to property is caused, the perpetrator

shall be punished by imprisonment for a term between two and eight years.

(4) A person referred to in paragraph 2 who perpetrates the criminal offence referred to in paragraph 2 of this Article by negligence,

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

(5) If, by the criminal offence referred to in paragraph 4 of this Article, the consequence referred to in paragraph 3 of this Article is caused, the perpetrator

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

### **Illegal Disposition of Entrusted Arms or Military Equipment Article 246.l**

Whoever illegally appropriates, conveys, pledges, gives to another for use, damages or destroys arms or military equipment, which are entrusted to him and which serve defence needs, shall be punished by imprisonment for a term between six months and five years.

### **Theft of Arms or Military Equipment Article 246.m**

(1) Whoever takes away arms or military equipment or a part of means of combat serving defence needs with an aim of acquiring, by appropriating it, unlawful material gain for himself or for someone else,

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

(2) The punishment of imprisonment for a term 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 great 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) 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 and the perpetrator acts with an aim of acquiring the material gain of such value.

### **Trespass on Military Installations and Unauthorised Making of Sketches or Drawings of Military Installations or Means of Combat Article 246.n**

(1) Whoever, for the purpose of reconnaissance, enters a military installation without authorisation, despite knowing that access is forbidden,

shall be punished by a fine or 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 between three months and three years.

### **Arbitrary Abandonment and Desertion of a Military Unit or Service** **Article 246.o**

(1) A military person who arbitrarily leaves his unit or service and fails to return on duty within the time-limit of ten days, or fails to return on duty from an authorized furlough from the unit or service within the same time-limit,

shall be punished by a fine or 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 more than twice for a period shorter than ten days stays outside his unit or service without permission and to a military person who arbitrarily leaves his unit or service at the time of executing an important task or when his unit is at an increased level of readiness for combat.

(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 fails within the same time-limit to return from an authorised furlough from the unit or service, shall be punished by imprisonment for a term between six months and five years.

(4) A military person who leaves the country or remains abroad in order to evade military service,

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

(5) A military person who prepares to escape abroad in order to evade military service, shall be punished by imprisonment for a term 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 released from punishment.

(7) The perpetrator of the criminal offence referred to in paragraph 3 and 4 of this Article, who voluntarily reports to a competent body, may be punished less severely.

### **Punishing for Criminal Offence Perpetrated during the State of War or the State of Emergency or When an Order for the Engagement and Employment of the Armed Forces is Issued** **Article 246.p**

(1) Whoever perpetrates the criminal offence referred to in Article 246.a (*Failure and Refusal to Execute an Order*), paragraph 2; Article 246.b (*Refusal to Receive and Use Arms*); Article 246.c (*Resisting a Superior*), paragraph 1; Article 246.d (*Violation of Sentry, Guard, Patrol or Other Similar Duty*), paragraphs 1, 2 and 5; Article 246.e (*Coercion Against a Military Person Discharging Official Duty*), paragraphs 1 and 2; Article 246.f (*Assault against a Military Person Discharging Official Duty*), paragraphs 1 and 2; Article 246.g (*Maltreatment of a Subordinate or a Military Person of Lower Rank*); Article 246.h (*Submitting Untrue Reports and Accounts*); Article 246.i (*Failure to Take Measures for the Protection of a Military Unit*), paragraphs 1, 4, 5 and 6; Article 246.j (*Deficient Protective Measures at Military Exercises*), paragraphs 1, 4, 5 and 6; Article 246.k (*Irregular or Careless Attitude toward Entrusted Arms or Military Equipment*),

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paragraphs 1, 4 and 5; Article 246.n (*Trespass on Military Installations and Unauthorised Making of Sketches or Drawings of Military Installations or Means of Combat*) and Article 246.o (*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 employment of the Armed Forces is issued, shall be punished by imprisonment for a term between one and ten years.

(2) Whoever perpetrates the criminal offence referred to in Article 246.d, paragraphs 3 and 6; Article 246.e, paragraph 3; Article 246.f, paragraph 3; Article 246.i, paragraphs 2 and 3; Article 246.j, paragraphs 2 and 3; Article 246.k, paragraphs 2 and 3; Article 246.l (*Illegal Disposition of Entrusted Arms or Military Equipment*); Article 246.m (*Theft of Arms or Military Equipment*), paragraph 1 and Article 246.o, 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 employment of the Armed Forces is issued,

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

(3) Whoever perpetrates the criminal offence referred to in Article 246.a, paragraph 1 and 3; Article 246.b, paragraph 1; Article 246.c, paragraphs 2, 3 and 4; Article 246.d, paragraph 4; Article 246.f, paragraph 4; Article 246.m, paragraph 2 and Article 246.o, paragraph 4 of this Code during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces is issued,

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

### **Joining the Enemy and Surrender to the Enemy**

#### **Article 246.r**

(1) A military person who joins an enemy's army during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces is issued, shall be punished by imprisonment for a term not less than five years.

(2) A military person who, before all means and ways have been exhausted, surrenders to an enemy's army during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces is issued, shall be punished by imprisonment for a term between one and ten years.

### **Failure to Discharge Duties During the Combat**

#### **Article 246.s**

(1) A military person who fails to discharge his duty during a combat or immediately before a combat and thereby causes serious consequences for the military unit, security operation or combat situation,

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

(2) If, by the criminal offence referred to in paragraph 1 of this Article extremely serious consequences are caused, the perpetrator shall be punished by imprisonment for a term between five and fifteen years.

**Leaving the Post During a Combat Without Permission**  
**Article 246.t**

- (1) A military person who leaves his post without permission during the combat or immediately before the combat,  
shall be punished by imprisonment for a term between one and ten years.
- (2) If, by the criminal offence referred to in paragraph 1 of this Article extremely serious consequences are caused, the perpetrator  
shall be punished by imprisonment for a term between five and fifteen years.

**Abandoning Position Contrary to the Order**  
**Article 246.u**

- (1) A superior military person who, contrary to the order, abandons the position with the unit he is in charge of before all defence means have been exhausted,  
shall be punished by imprisonment for a term between one and ten years.
- (2) If, by the criminal offence referred to in paragraph 1 of this Article extremely serious consequences are caused, the perpetrator  
shall be punished by imprisonment for a term between five and fifteen years.

**Abandoning Damaged Vessel or Aircraft Prematurely**  
**Article 246.v**

- (1) A commander of a combat vessel who, during the state of war or an immediate war threat or during the state of emergency or when an order for the engagement and employment of the Armed Forces is 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 between one and ten years.
- (2) A crew member of a combat vessel, who during the state of war or an immediate war threat or during the state of emergency or when an order for the engagement and employment of the Armed Forces is issued, abandons the damaged vessel before the commander of the vessel gave the order to abandon it, 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 between one and eight years.
- (3) If, by the criminal offence referred to in paragraph 1 and 2 of this Article extremely serious consequences are caused, the perpetrator shall be punished:
- a) for the criminal offence referred to in paragraph 1 of this Article by imprisonment for a term between five and fifteen years;
  - b) for the criminal offence referred to in paragraph 2 of this Article by imprisonment for a term between two and ten years.

### **Leaving Undamaged Means of Combat to the Enemy**

#### **Article 246.z**

- (1) A military person who allows a substantially undamaged military depot, vessel, aircraft, tank or other means of combat to fall into enemy hands, shall be punished by imprisonment for a term 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 substantially undamaged facilities or other installations of great importance for defence of the State to fall into enemy hands.
- (3) Whoever perpetrates the criminal offence referred to in paragraph 1 and 2 of this Article by negligence, shall be punished by imprisonment for a term not exceeding three years.

### **Undermining Readiness to Combat and Combat Circumstances**

#### **Article 246.q**

- (1) Whoever, during a combat or immediately before a combat, undermines readiness to combat within the unit or damages combat circumstance by rising 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 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 a combat or immediately before a combat, undermines readiness to combat within the unit or damages combat circumstances by spreading disturbing news, making disorder and confusion in the unit or in some other way, shall be punished by imprisonment for a term between one and five years.
- (3) If, by the criminal offence referred to in paragraphs 1 and 2 of this Article extremely serious consequences are caused, the perpetrator shall be punished by imprisonment for a term not less than five years.

### **Failure to Secure a Military Unit**

#### **Article 246.x**

- (1) A military person who during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces is 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 between two and twelve years.
- (2) If, by the criminal offence referred to in paragraph 1 of this Article extremely serious consequences are caused for the unit, the perpetrator shall be punished by imprisonment for a term 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 between three months and three years.
- (4) If, by the criminal offence referred to in paragraph 3 of this Article a consequence referred to in paragraph 2 of this Article is caused, the perpetrator

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

### **Failure to Inform Military Authorities Article 246.y**

(1) Whoever during the state of war or the state of emergency or when an order for the engagement and employment of the Armed Forces is issued fails to inform the superior or senior officer or headquarters about an incident that manifestly requires military actions without delay, shall be punished by imprisonment for a term not exceeding two years.

(2) If, by the criminal offence referred to in paragraph 1 of this Article extremely serious consequences are caused, the perpetrator shall be punished by imprisonment for a term between one and eight years.

### **Pronouncing a Disciplinary Penalty or a Disciplinary Measure Article 246.w**

For a criminal offence against the Armed Forces of Bosnia and Herzegovina prescribed in this Chapter of this Code and for which a punishment of imprisonment for a term not exceeding three years is prescribed, a disciplinary penalty or a disciplinary measure determined by regulations regulating disciplinary responsibility in the armed forces may be pronounced to a military person instead of a criminal sanction, provided that the offence is of an especially light character and that interests of the service so require.

### **Responsibility for a Criminal Offence Perpetrated on Superior's Orders Article 246.ww**

There shall be no criminal offence if its legal elements are met by a subordinate pursuant to an order from his superior and that order is 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 for which a punishment of imprisonment for a term of ten years or a more severe punishment may be imposed, or if it is obvious that by obeying such an order a criminal offence would be perpetrated.

## **XXII CHAPTER TWENTY – TWO CONSPIRACY, PREPARATION, ASSOCIATING AND ORGANISED CRIME**

### **Conspiracy to Perpetrate a Criminal Offence Article 247**

Whoever agrees with another to perpetrate a criminal offence prescribed by the law of Bosnia and Herzegovina, for which a punishment of imprisonment of three years or a more severe punishment may be imposed, unless a heavier punishment is foreseen for conspiracy of a particular criminal offence, shall be punished by a fine or imprisonment for a term not exceeding one year.

## **Preparation of a Criminal Offence**

### **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, for which a punishment of imprisonment of three years or a more severe punishment may be imposed, unless a heavier punishment is foreseen for preparation of a particular criminal offence, shall be punished by a fine or imprisonment for a term not exceeding three years.

## **Associating for the Purpose of Perpetrating Criminal Offences**

### **Article 249**

(1) Whoever organises or directs at any level a group of people or otherwise associates three or more persons with an aim of perpetrating criminal offences prescribed by the law of Bosnia and Herzegovina, ~~for which a punishment of imprisonment of three years or a more severe punishment may be imposed,~~ 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 between ~~six months and five years~~ 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 punished by a fine or imprisonment for a term not exceeding ~~one~~ three year.

(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 criminal offence within its ranks or for its sake, may be released from 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 punished by a fine or imprisonment for a term not exceeding one year, but may be released from punishment.

## **Organised crime**

### **Article 250**

(1) Whoever perpetrates a criminal offence prescribed by the law of Bosnia and Herzegovina as a member of an ~~organised criminal group~~ organized crime group, unless a heavier punishment is foreseen for a particular criminal offence, shall be punished by imprisonment for a term not less than three years.

(2) Whoever as a member of an ~~organised criminal group~~ organized crime group perpetrates a criminal offence prescribed by the law of Bosnia and Herzegovina, for which a punishment of imprisonment of three years or a more severe punishment may be imposed, unless a heavier punishment is foreseen for a particular criminal offence, shall be punished by imprisonment for a term not less than five years.

(3) Whoever organises or directs at any level an ~~organised criminal group~~ organized crime group which by joint action perpetrates or attempts to perpetrate criminal offence prescribed by the law of Bosnia and Herzegovina, shall be punished by imprisonment for a term not less than ten years or a long-term imprisonment.

(4) Whoever becomes a member of an ~~organised criminal group~~ organized crime group which by joint action perpetrates or attempts to perpetrate criminal offence prescribed by the law of Bosnia and Herzegovina, unless a heavier punishment is foreseen for a particular criminal offence, shall be punished by imprisonment for a term not less than one year.

(5) A member of an ~~organised criminal group~~ organized crime group referred to in paragraph 1 through 4 of this Article, who exposes the organised criminal group, may be released from punishment.

## **XXIII CHAPTER TWENTY – THREE 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 secure the agreement regarding the execution of criminal sanctions in the institutions under the Entities' or District's regulation in three months time from the entry into force of this Code.

### **Entry into Force Article 252**

This Code shall enter into force on the 1 March 2003.