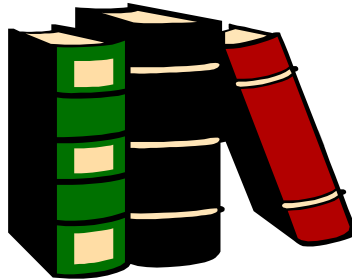




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## Department for Legal Affairs



# LAW OF BOSNIA AND HERZEGOVINA ON THE EXECUTION OF CRIMINAL SANCTIONS, DETENTION AND OTHER MEASURES

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# **LAW OF BOSNIA AND HERZEGOVINA ON THE EXECUTION OF CRIMINAL SANCTIONS, DETENTION AND OTHER MEASURES**

## **GENERAL PROVISIONS**

### **Article 1**

#### **Scope and Application of this Law**

- (1) This Law shall regulate the execution of criminal sanctions, detention, and other measures ruled by the Court of Bosnia and Herzegovina and shall regulate the organization and work of the competent authorities as prescribed by this Law.
- (2) This Law also provides for the execution of legally valid decisions of foreign courts for the offences foreseen by the Law of Bosnia and Herzegovina, unless otherwise provided by a special law of Bosnia and Herzegovina or an international treaty to which Bosnia and Herzegovina is a party.
- (3) This Law provides for the execution of criminal sanctions, detention, and other measures ruled by the Court of Bosnia and Herzegovina in respect of foreign nationals and stateless persons, unless otherwise provided by a special law of Bosnia and Herzegovina or an international treaty to which Bosnia and Herzegovina is a party.
- (4) At the request of a convicted person sanctions imposed by entity courts for offences foreseen by the Criminal Code of Bosnia and Herzegovina shall be executed under the provisions of this law.
- (5) The provisions set forth in this law shall provide for the organization and work of the penal-correctional establishment of Bosnia and Herzegovina.

### **Article 2**

#### **Definitions**

Unless otherwise provided under this Law, the particular terms used for the purposes of this Law shall have the following meanings:

- a) The term “detainee” refers to a person who has not been pronounced criminally responsible for a particular criminal offense in a final verdict and who is detained in an Establishment in accordance with the provisions of this Law following the decision of a Court ordering detention before, during or after trial;
- b) The term “convicted person” refers to a person pronounced criminally responsible for a particular criminal offense in a final verdict;
- c) The term “prisoner” refers to a person pronounced criminally responsible for a particular criminal offense in a final verdict and who serves his/her prison sentence as imposed by a final verdict in an Establishment in accordance with the provisions of this Law;

- d) The term “authorized Establishment officer” refers to employees of the Establishment who have authority to carry out the duties and powers as described by this Law (such as the use of coercive measures, search of premises etc.) and who, in addition, shall carry out other duties as further described in Rulebooks;
- e) The term “injured party” refers to a person whose personal or property rights have been threatened or violated by a criminal offense;
- f) The term “legal person” refers to all persons as defined in the Criminal Procedure Code of Bosnia and Herzegovina including corporations, companies, associations, firms and partnerships and other business enterprises;
- g) The term “Prosecutor” shall mean any Prosecutor in the Prosecutor’s Office of Bosnia and Herzegovina;
- h) The term “Court” shall mean the Court of Bosnia and Herzegovina;
- i) The term “Criminal Procedure Code” shall mean the Criminal Procedure Code of Bosnia and Herzegovina;
- j) The term “Criminal Code” shall mean the Criminal Code of Bosnia and Herzegovina;
- k) “The Ministry of Justice” shall mean the Ministry of Justice of Bosnia and Herzegovina.

### **Article 3 Enjoyment of Rights**

- (1) Persons subject to execution of criminal sanctions, detention and other measures shall retain all rights other than those necessarily restricted for the purpose for which they were ordered and in accordance with this Law and international agreements.
- (2) No restriction will be imposed that is not foreseen in law, necessary for the purpose for which it is intended, effective in achieving that purpose and a proportionate response.
- (3) The Ministry of Justice shall ensure access to and confidential communication between all detainees and prisoners and domestic and international organisations and other institutions competent for monitoring and protecting human rights and fundamental freedoms in accordance with the law and international instruments. The Establishment shall provide for the communication to be carried out without any undue hindrance.

### **Article 4 Beginning of Execution**

- (1) The execution of a criminal sanction, detention, or other measure shall start when the decision imposing it becomes final and if there are no legal obstacles.
- (2) The execution of a criminal sanction or other measure may start before legal validity of the decision imposing such a sanction or measure only in exceptional cases foreseen by law.

**Article 5**  
**Actions to Effect Execution**

- (1) When the conditions for the execution of a criminal sanction detention, or other measure are fulfilled, the Criminal Division of the Court shall undertake necessary actions to effect execution without delay and pursuant to this Law.
- (2) The execution may be postponed only in cases and under conditions provided by law.

**Article 6**  
**Execution Costs and Tax Payment**

- (1) A person subject to criminal sanctions, detention, or other measures shall not be required to pay execution costs, except the costs of a fine or other costs as prescribed by law.
- (2) Submissions, official actions and other procedural decisions concerning the execution shall not be subject to the payment of tax.

**Article 7**  
**Expert Council**

The Minister of Justice will, for the purposes of analysis and improvement of the execution system, set up an expert council involving representatives of scientific institutions, courts, administrative bodies, expert associations, civil society and other institutions dealing with criminal issues and the education of convicted persons.

**Article 8**  
**Execution Activities as Special Interest for Bosnia and Herzegovina**

The execution of criminal sanctions, detention and other measures as prescribed by this Law shall be activities of special interest for Bosnia and Herzegovina.

**I. AUTHORITIES COMPETENT FOR EXECUTION OF CRIMINAL SANCTIONS, DETENTION AND OTHER MEASURES**

**1. Lead and Co-operating Authorities**

**Article 9**  
**Ministry of Justice and Establishment**

In Bosnia and Herzegovina, the authorities competent for the execution of criminal sanctions, detention and other measures ruled by the Court are the Ministry of Justice and establishments for execution of criminal sanctions, detention and other measures, unless otherwise provided by this Law.

**Article 10**  
**Co-operating Authorities**

Authorities, institutions and other legal persons whose scope of activities includes implementation of health, social, educational or other measures related to the execution of criminal sanctions, detention and other measures shall co-operate with the Ministry of Justice. The obligation to co-operate extends to assistance provided to persons conditionally released.

## **2. Organisation of the Establishments**

### **Article 11**

#### **Duty to provide separate accommodation**

(1) Separate accommodation shall be provided for each of the following groups of persons:

1. Those in detention from those serving sentence;
2. Males from females;
3. Adults from juveniles.

(2) This accommodation may be provided either as a separate Establishment or as a separate unit within an establishment.

### **Article 12**

#### **Special units**

Special units of closed, semi-open and open type may be included in the Establishment.

### **Article 13**

#### **Establishment of a medical centre**

A medical centre may be provided within the Establishment for the treatment of persons subject to detention or imprisonment.

## **3. Management of the Establishments and Employees**

### **Article 14**

#### **Appointment and Accountability of the Governor**

(1) The provisions of the Law on Civil Servants in the Institutions of Bosnia and Herzegovina or the Labour Law for institutions of Bosnia and Herzegovina, as appropriate, shall apply to the staff of the Establishment, unless otherwise provided by this Law.

(2) The Establishment shall be managed by a Governor who shall be accountable to the Minister of Justice.

(3) Based on the proposal and procedure carried out by the Civil Service Agency, the Minister of Justice shall appoint and dismiss the Governor of the Establishment.

(4) The Governor is a managerial civil servant, with the status of a secretary on a special mission and shall be appointed with a five-year mandate and can be re-appointed in accordance with Paragraph 3 of this Article.

(5) A person eligible for the position of Governor of the Establishment shall have university qualifications and experience of at least five years in the field of execution of criminal sanctions and detention, the execution of criminal and misdemeanor sanctions, in the field of justice system or administration.

### **Article 15**

#### **Duties of the Governor**

The Governor shall organize the work of the Establishment, co-ordinate the work of organisational units, supervise the regularity and lawfulness of the work, represent

the Establishment, and perform other duties for which s/he is competent by law and other regulations.

#### **Article 16 Other Management Staff**

The Governor shall be assisted in managing certain areas of his work by managerial staff.

#### **Article 17 Organisational Units**

(1) The Establishment shall have organisational units dealing with security, educational treatment, health care, work of detainees and prisoners, administration and personnel.

(2) The Rule Book on internal organisation may, depending on the needs and nature of work, regulate the establishment of other organisational units of the Establishment in accordance with the provisions on principles of internal organisational structure of the administrative bodies.

(3) The legislation regulating the administrative bodies of Bosnia and Herzegovina shall apply to the internal organisation of the authorities for the execution of criminal sanctions, detention and other measures, unless otherwise provided by this Law.

#### **Article 18 Organization of Treatment of prisoners**

(1) With the aim of achieving the purpose of execution of the prison sentence referred to in Article 105 of this Law, the organizational unit of the Establishment responsible for the treatment of prisoners shall plan and co-ordinate educational activities and evaluate their personality, develop the treatment program for each prisoner, observe, either directly or through other organizational units and professional instructors, the work and behaviour of prisoners in the course of serving their sentence, collect and compile data and observations on behaviour and conduct of prisoners by expert instructors, teachers and other staff that work directly with the prisoners, analyse and study the achieved results and the impact of educational measures, on the basis of which it undertakes measures necessary to improve the educational treatment in the Establishment applying modern methods and types of activities.

(2) The education tasks should be entrusted to a sufficient number of educators with appropriate university degrees. As a rule, one teacher per 50 prisoners shall be employed.

(3) The Establishment shall have, as a rule, a team of experts in assessment and development of treatment programs for prisoners (psychologist, pedagogue, social worker, doctor, lawyer and other experts).

(4) The Establishment shall have a sufficient number of technical instructors for training the prisoners.

(5) Educators, psychologists, pedagogues, social workers, instructors and other experts involved in the treatment program of prisoners shall pass a vocational ability exam.

**Article 19**  
**Health Care**

- (1) Health services shall be organized in the Establishment for rendering medical assistance to detainees and prisoners.
- (2) The unit for women shall have a maternity ward and appropriate facilities for children for the purpose of enabling contacts of female detainees or prisoners with their children in appropriate conditions.

**Article 20**  
**Administration**

Administrative, legal, financial, office, personnel and general affairs shall be carried out by the Establishment staff, in accordance with the Rule Book on internal organization.

**Article 21**  
**Authorized Establishment Officers Recruitment Standards**

- (1) Candidates for recruitment in the Establishment as authorized Establishment officers should, along with satisfying general requirements for civil servants, fulfil health and psycho-physical conditions prescribed for police officers.
- (2) The health and psychophysical capacities of the candidates referred to in Paragraph 1 of this Article shall be tested by the medical institution designated by the Minister of Justice.
- (3) Testing of health and psychophysical capacities of the persons working as authorized Establishment officers shall be once a year.

**Article 22**  
**Authorized Establishment Officers – Entitlements**

- (1) Authorized Establishment officers and persons employed in the Establishment working in direct contact with prisoners shall be entitled to the rights in medical, pension and disability insurance, and other labour rights equal to the rights of Court police officers and police officers.
- (2) Due to special working conditions and the nature of duties and tasks, the funds allocated to the salaries referred to in Paragraph 1 of this Article shall be enhanced relative to the funds allocated for salaries for other administrative staff.
- (3) The Ministry of Justice shall keep records on persons referred to in Paragraph 1 of this Article and shall issue certificates on the working experience.
- (4) The Minister of Justice shall determine which persons shall have rights arising from Paragraph 1 of this Article.

**Article 23**  
**Authorized Establishment officers – Death on Duty**

- (1) A person referred to in Paragraph 1 of Article 22 of this Law who loses his/her life when on duty shall have the right to be buried at the expense of the Ministry of Justice in the place as determined by his/her family.
- (2) The family supported by the deceased shall have rights to financial support amounting to the salary for the six months preceding the death.

#### **4. Disciplinary accountability**

##### **Article 24 Violations of Official Duty**

- (1) When acting in an official capacity, employees in the Establishment shall be disciplined for acts in violation of official duties set forth by this Law, the Rule Book on internal organization or other regulations.
- (2) Violations of official duty may be minor and severe.
- (3) Severe violations are in particular considered to be the following:
  1. Abuse of office and exceeding official authority;
  2. Violation of confidentiality;
  3. Negligence at work;
  4. Unjustified absence from work for more than three days continuously;
  5. Failure to undertake or insufficient undertaking of prescribed measures as a result of which harmful consequences arose or may have arisen;
  6. Any action, or failure to act, undermining the regular and effective functioning of the Establishment;
  7. Refusal to carry out any task allocated officially;
  8. Any arrangement with a detainee or prisoner outside the prescribed tasks and orders by the Ministry of Justice and the Governor of the Establishment that does not contribute to the normal execution of detention or the prison sentence and is not related to the education of detainees or prisoners;
  9. Indecent behaviour inside or outside the Establishment inflicting evident harm to the reputation of the Establishment;
  10. Violations of regulations on fire protection, explosions, or other natural disasters;
  11. Negligence towards the property, uniforms, arms, equipment;
  12. Being at work in an intoxicated condition, abuse of alcohol or other narcotics decreasing working capacity in performing officially allocated tasks;
  13. Unauthorized use of official equipment and of other means entrusted for the performance of official tasks;
  14. Failing to submit reports or unnecessary delays in referring documents or information as requested by the authorised bodies or organisations;
  15. Frequent minor violations of work obligations and discipline, incriminating actions or other offences detrimental to the reputation of the Establishment.
- (4) The Rule Book on internal organisation shall define minor violations of work duties and obligations.

##### **Article 25 Disciplinary Procedure for Violations of Official Duty**

The Minister of Justice will publish a Rule Book regulating the procedures that shall be followed when it is alleged that any employee of the Establishment has committed a violation of official duty.



## **5. Special provisions on security service**

### **a) Authorized Establishment Officers**

#### **Article 26**

##### **Authorized Establishment Officers – Security Duty**

- (1) The Security service in the Establishment shall be entrusted to the authorized Establishment officers.
- (2) Authorized Establishment officers shall secure the Establishment, work-sites and premises where persons deprived of liberty work and live. They shall guard those persons within and outside the Establishment, keep internal order and discipline among the persons deprived of liberty, escort those persons and carry out other tasks prescribed by law and other regulations.
- (3) In the unit for female detainees and female prisoners a sufficient number of female authorized Establishment officers shall be employed.

#### **Article 27**

##### **Duty when life at risk**

Authorized Establishment officers shall carry out their duties and tasks even where their lives may be at risk.

#### **Article 28**

##### **Authorized Establishment officers – Uniforms and ID**

- (1) Authorized Establishment officers shall wear uniforms.
- (2) Authorized Establishment officers shall be entitled to a uniform free of charge and equipment for security tasks.
- (3) Authorized Establishment officers shall be issued an official ID to prove their official capacity.
- (4) The format and content of the ID shall be prescribed by the Minister of Justice.

#### **Article 29**

##### **Insignia, Official Titles etc.**

- (1) The Minister of Justice shall prescribe insignia and the badges, colours and signs on vehicles, uniforms, official titles, insignia for titles and conditions for acquiring official titles of authorized Establishment officers.
- (2) The Minister of Justice shall issue Rules on the manner of exercising security tasks, arms and equipment, wear-and-tear and compensation when destroyed, organization of practical training, and manner and programs of vocational training.

#### **Article 30**

##### **Vocational Training**

- (1) The Ministry of Justice, in co-operation with the entity Ministries of Justice shall set competence standards for each class of Establishment staff and may organize professional training, seminars and other forms of professional education as necessary for the achievement by the Establishment staff of these standards.

(2) Each Establishment shall co-operate with the Ministry of Justice in providing necessary training for their staff.

**b) Use of Coercive Measures and Other Powers by  
Authorized Establishment Officers**

**Article 31**

**Use of Coercive Measures**

(1) An authorized Establishment officer may use coercive measures against a detainee or prisoner only when it is necessary to prevent escape, physical attack on a staff member or other persons, inflicting injuries to someone else, to break the resistance to lawful action by an authorized person, self inflicting injuries or causing material damage.

(2) The use of coercive measures has to be proportionate to the level of danger and the risk presented.

**Article 32**

**Authorized Establishment officers – Carrying Arms**

(1) Authorized Establishment officers may be armed when performing duties outside the Establishment.

Under no circumstances may authorized Establishment officers carry arms inside the Establishment.

(2) Authorized Establishment officers who have not received accredited training on the use of that weapon in the last 6 months may not carry arms.

**Article 33**

**Use of Firearms**

(1) Acting in official duty, an authorized Establishment officer may use firearms only if it is not possible otherwise to:

1. Protect human lives;
2. Suppress direct attack threatening his life or lives of other employees;
3. Suppress attack on the facility he is securing;
4. Prevent escape of a prisoner from the Establishment for the execution of prison sentence of closed type or from a special closed type unit and who, were s/he to escape, would present an imminent threat to the life of others;
5. Prevent the escape of a detainee or prisoner who, were s/he to escape, would present an imminent threat to the life of others while escorting or securing him/her.

(2) In cases referred to in Paragraph 1 of this Article, an authorized Establishment officer may use fire arms only if the use of physical force, rubber baton or other coercive means foreseen by law cannot secure the execution of his/her official task. The use of firearms has to be proportionate to the level of danger and the risk presented.

(3) Authorized Establishment officers on duty in the presence of a managing authorized officer may use firearms only upon his/her order or the order by the person replacing him/her.

(4) The order to use firearms shall be issued by the superior managing authorized officer, or his deputy and only in cases referred to in Paragraph 1 of this Article.

(5) The Governor of the Establishment has the authority to order the use of firearms when s/he assesses it to be on one of the grounds referred to in Paragraph 1 of this Article.

#### **Article 34**

##### **Search of Premises and Requisition of Necessary Means**

(1) An authorized Establishment officer may enter an apartment or other premises, without a search warrant, and search them for the purpose of locating and arresting a fugitive from the Establishment or a person who escaped, while being escorted and took shelter in the apartment or other premises.

(2) Where an apartment or other premises is entered no record shall be made but the occupier shall be immediately issued with a certificate stating the reason for such entering.

(3) If a search of an apartment or premises has been carried out, a record shall be made.

(4) A search can be performed without the presence of witnesses only if their presence cannot be provided.

(5) If s/he cannot do it in any other way an authorized Establishment officer is entitled to use a vehicle and any means of communication available for the purpose of preventing escape and securing the arrest of a fugitive whom s/he is pursuing or to transport a person injured as a consequence of the use of firearms to the nearest health institution.

(6) The certificate on the use of vehicles and communication means shall be issued to the owner of those means for the purpose of regulating the compensation for their use.

#### **Article 35**

##### **Reports of Use of Force**

The Governor of the Establishment shall promptly inform the Ministry of Justice of any use of coercive measures (physical force, batons, fire hoses or chemical devices) or firearms against detainees or prisoners.

#### **Article 36**

##### **Protection against Prosecution**

(1) If coercive measures or firearms have been used within authorisation provided by this Law, disciplinary and criminal responsibility of the authorized Establishment officer shall be excluded.

(2) The Minister of Justice shall publish a Rule Book on the use of firearms and other coercive means, the content of the records on the search of apartments and other premises, certificates on entry into apartments and other premises and certificates on the use of vehicles and communication means.

**Article 37**  
**Legal Aid**

Where criminal charges are brought against an authorized Establishment officer or the Governor of the Establishment following the use of coercive means, firearms or other actions when on duty, the Ministry of Justice shall provide for legal aid.

**Article 38**  
**Assistance given to Authorized Establishment officers by**  
**Members of the Public**

- (1) Persons who, upon the request by an authorized Establishment officer, give assistance in arresting a detainee or prisoner who was resisting or who participated in an uprising or who ran away and were injured on that occasion, fell sick or stayed unemployed for a longer period of time, shall be entitled to all the rights from health, pension and disability insurance as any other person employed on a full time basis.
- (2) If a person referred to in Paragraph 1 of this Article while giving assistance, loses life, s/he will be buried at the expense of the Ministry of Justice in the place decided by the family.
- (3) In the case referred to in Paragraph 2 of this Article, the family or person supported by the deceased shall be entitled to financial assistance that shall not be less than six times the average salary in the Establishment for the preceding three months.
- (4) If criminal charges are brought against the person referred to in Paragraph 1 of this Article, s/he shall be provided with legal aid.

**6. Confidentiality**

**Article 39**  
**Official Secrets**

- (1) Employees and staff of the Ministry of Justice and the Establishment shall keep official secrets.
- (2) The requirement for confidentiality remains in place after the end of the period of employment.
- (3) For the purposes of this Law official secrets shall be:
  1. Data and documents accessible to an employee or an officer in carrying out his/her duty and which are, based on the law and job description, classified;
  2. Data, documents, measures and actions accessible to an employee or an officer in carrying out his/her duty the disclosure of which, or communication to an unauthorised person, would threaten or be detrimental to the work of the Establishment and its interests, or the justified interest of an individual or a legal person;
  3. Data or documents that are defined as confidential in the Rules on Administration.
- (4) The Minister of Justice shall define more precisely what constitutes an official

secret, the manner of keeping an official secret and how a person may be released from the requirement for confidentiality.

## **7. Supervision over the Work of the Establishment**

### **Article 40 Inspector**

(1) The Ministry of Justice shall supervise the work of the Establishment with the view of ensuring a uniform system of execution of detention and prison sentences, transfer of positive experience, analysis and study of the work in individual organisational units and providing support to them.

(2) Supervision over the execution of detention and prison sentence shall include in particular: control over work programs and plans of the Establishment, individual services and employees, work and organisation of the security service, treatment programs, records, admission service, classification and implementation of treatment programs, conditions of [security and safety]<sup>1</sup>, legality and lawfulness of the treatment of detainees and prisoners, implementation of this Law and other provisions regulating the execution of prison sentences, organization of work of detainees and prisoner, protection of rights of detainees and prisoners; as well as conditions referred to in Article 56 of this Law.

(3) Supervision referred to in Paragraph 2 of this Article shall be conducted by the Ministry of Justice through an Inspector who shall be an officer with special powers (hereinafter: "The Inspector").

### **Article 41 Supervision by other authorities**

Supervision over the work of the Establishment concerning the protection at work, health and sanitary protection of detainees and prisoners, conditions and food preparation for detainees and prisoners, shall be conducted by the responsible bodies in accordance with special regulations.

### **Article 42 Submission of Inspector's Report**

(1) There shall be a written report on the inspection which shall include the inspection findings and shall order measures to be undertaken and the deadlines for elimination of identified irregularities, as well as measures for the improvement of the work of the Establishment.

(2) The report shall be submitted to the Governor of the Establishment and may be published by the Inspector.

(3) The Governor of the Establishment must act in accordance with the measures ordered.

(4) The Governor may dispute through the Minister of Justice any of the measures ordered in the report within eight days from the receipt of the report.

(5) The Inspector shall publish an annual report of his/her work.

## **8. Informing the public**

### **Article 43 Release of Information**

(1) When it is in the public interest or when necessary, the Minister of Justice or a person authorized by him may release information to the media on issues concerning the execution of detention or of imprisonment.

(2) Disclosure of information and data shall be denied when it is a confidential matter, or state or official secret and when it would not be in the interest of [security or]<sup>2</sup> public order or the maintenance of discipline in the Establishment, or if it would have a negative impact on the purpose of the execution of detention or imprisonment.

## **9. Funds for the work of the Establishment**

### **Article 44 Budget**

Funds for financing the Establishment shall be allocated from the Budget of Bosnia and Herzegovina in accordance with the Law on Budget of Bosnia and Herzegovina.

## **II. PROVISIONS FOR THE EXECUTION OF DETENTION AND IMPRISONMENT**

### **1. General Provisions**

#### **Article 45 Requirement for Humane Treatment**

(1) The treatment of detainees and prisoners must be humane and with respect for their human dignity, preserving their physical and mental health, taking into account the maintenance of necessary order and discipline.

(2) No one shall be subjected to torture, inhuman or degrading treatment or punishment.

(3) The treatment of detainees and prisoners shall be without any prejudice on the basis of their ethnicity, race, colour, gender, sexual orientation, language, religion or faith, political or other beliefs, national or social background, consanguinity, economic or any other status.

#### **Article 46 Right to Practise Religion**

(1) Detainees and prisoners shall have the right to practise their religious needs pursuant to this Law and the rules of the religious communities.

(2) The Establishment shall provide in cooperation with religious communities in BiH conditions to meet religious needs of the persons accommodated in the Establishment.

**Article 47**  
**Association and Separation of Detainees and Prisoners**

- (1) As a rule, detainees shall be detained in association and prisoners shall serve their prison sentence in association.
- (2) The following classes of detainees and prisoners shall be managed separately:
  1. Males from females
  2. Juveniles from adults.
- (3) Under the following circumstances a detainee or prisoner may be kept segregated from others:
  1. When strictly required in the interests of the health of the individual or of others;
  2. In circumstances regulated by any other law;
  3. When requested by the detainee or prisoner for his or her own protection and on the approval of the Governor of the Establishment.
  4. Where the person represents a serious threat to the order of the Establishment and under the conditions prescribed in Article 95.

**2. Commitment to Detention or Prison Sentence**

**Article 48**  
**Jurisdiction to Commit**

- (1) Detainees and convicted persons shall be committed to detention or imprisonment by the Criminal Division of the Court.
- (2) The Criminal Division of the Court shall undertake all actions as may be necessary to provide for the execution of detention and imprisonment immediately upon the enforceability of that decision.

**Article 49**  
**Register**

Upon the admission to the Establishment, the name of the detainee or prisoner shall be promptly entered into the appropriate register.

**Article 50**  
**Duty to Inform Detainees and Prisoners**

- (1) All detainees and prisoners shall be advised on admission, verbally and in writing in a language which they understand, about the House Rules, their rights and duties in the Establishment, the way of exercising those rights and about the system of disciplinary offences and sanctions.
- (2) The Governor of the Establishment shall ensure that the provisions of this Law as well as other regulations on the execution of detention and imprisonment pertaining to the rights and duties of detainees and prisoners, are made accessible, in a form that they can understand, to all detainees and prisoners.

**Article 51**  
**Detainees and Prisoners with Children**

If a person committed to detention or imprisonment has children or another person for whom s/he is the exclusive provider, the Court shall inform the social welfare authority of the competent municipality.

**Article 52**  
**Valuables**

(1) All money, valuables and other belongings of a detainee or prisoner which, s/he is not, based on the House Rules of the Establishment, allowed to keep on himself, must be put in a safe place at the Establishment when the person is admitted, and a list of these items shall be made. At the request of the owner, property stored at the Establishment when the person is admitted at the Establishment shall be handed over to members of his family even before his discharge from the Establishment.

(2) Property under Paragraph 1 of this Article shall be returned to the owner when released from the Establishment or, with the owner's consent, shall be handed over to his/her family.

(3) The owner should sign for his/her valuables and this signature shall be countersigned by a staff member.

**Article 53**  
**Medical screening**

(1) Each detainee or prisoner shall be examined immediately on admission by a qualified nurse and shall be medically screened by a doctor within 24 hours.

(2) A record of the examination shall be entered into the medical records of the detainee or prisoner.

**3. Accommodation and Hygiene Conditions**

**Article 54**  
**Hygiene Requirements**

The accommodation of detainees and prisoners in the Establishment must meet the hygienic requirements foreseen by this Law and local climatic conditions.

**Article 55**  
**Basic Living Conditions**

(1) Each detainee and prisoner shall be provided, as a rule, a separate room for sleeping, except in cases when shared accommodation for several persons is considered advantageous.

(2) Each detainee or prisoner shall be provided with separate bed and bed-linen.

(3) Shared accommodation shall be provided for detainees and prisoners when at work, undertaking training activities, at meals, during free-time activities, in the day room and in similar circumstances.



**Article 56**  
**Accommodation Standards**

- (1) All rooms in which detainees and prisoners spend time must have satisfactory health and hygiene requirements, sufficient air, light, heating and ventilation.
- (2) Those accommodated in a single cell shall have a minimum of seven square metres space and those in dormitories four square meters space each, and not less than ten cubic meters per person.
- (3) Windows in rooms for accommodation of detainees and prisoners must be large enough to enable working and reading in daylight in normal conditions, and fresh air entry, unless air-conditioning is installed, and to match, by shape and size, standard windows.
- (4) Artificial light shall be in conformity with existing technical standards.
- (5) Sanitary facilities shall allow detainees and prisoners to meet their physiological needs in privacy and in clean and decent conditions.
- (6) Each detainee and prisoner shall be able to use appropriate facilities for having a bath and shower at the temperature suitable to the climatic conditions and at intervals necessary to maintain normal personal hygiene, but at least daily.
- (7) All the rooms in the Establishment shall be appropriately maintained and be cleaned regularly.
- (8) The work referred to in Paragraph 7 shall be performed by prisoners for up to two hours a day without any reimbursement.
- (9) Disabled detainees and prisoners shall be provided accommodation appropriate to the kind and degree of their disability.

**Article 57**  
**Personal Hygiene**

- (1) Detainees and prisoners shall maintain their personal hygiene. For this the Establishment shall provide them with water and toilet requisites.
- (2) Detainees and prisoners may grow beards and dress their hair as they wish.

**4. Food and Clothes**

**Article 58**  
**Clothes and footwear**

- (1) Detainees and prisoners who are not allowed to wear their own clothes shall be provided clothes and footwear appropriate to the climatic conditions in order to ensure their health is not threatened.
- (2) Clothes provided by the Establishment must not be degrading or humiliating.
- (3) Regulations concerning clothes and footwear of detainees and prisoners shall be published by the Minister of Justice.

## **Article 59**

### **Food**

- (1) Detainees and prisoners shall be provided with food at regular intervals. Meals, both by their quantity and quality, shall satisfy the nutritional and hygiene standards and be appropriate to both the age, health condition and type of work they do and to their religious and cultural requirements.
- (2) Adult detainees and prisoners shall be provided with food with a calorific value of 12,500 joules per day, and 14,500 for juveniles.
- (3) A Rule Book on food for detainees and prisoners, including calorific charts shall be passed by the Minister of Justice.
- (4) Drinking water shall be freely available at all times.

## **5. Health Care**

### **Article 60**

#### **Right to Health Care**

- (1) Detainees and prisoners shall have the right to medical assistance and treatment, essential dental care (such as repairing and extracting teeth) and hospital treatment.
- (2) The relationship between a doctor and detainee or prisoner is confidential. A medical examination may only take place in the presence of an authorized Establishment officer at the doctor's request.
- (3) The costs of medical treatment shall be borne by the Establishment.

### **Article 61**

#### **Special Needs**

- (1) Orthodontic works, pursuant to the regulations in the health sector, are, as a rule, provided at the expense of the person requesting it. In case where the person has no means to pay for such work, and the orthodontic work, in the opinion of the Establishment's doctor, cannot be postponed without a risk to the patient's health, the expenses shall be borne by the Establishment.
- (2) The need for acquisition of orthopaedic aids, spectacles, hearing aids or other aids, as prescribed by the Establishment's doctor, shall be arranged pursuant to the regulations in the health sector.

### **Article 62**

#### **Hospitalisation**

- (1) The Establishment shall have its own doctor and organized Health Care system.
- (2) The doctor shall decide on hospitalisation of a detainee or prisoner in the medical centre of the Establishment.
- (3) If the Establishment cannot provide adequate medical treatment, or if there is no capacity for specialist medical treatment in the Establishment, the patient shall be referred to a health institution, upon the decision made by the Establishment's doctor, after consulting with the Governor of the Establishment.

**Article 63**  
**Right to Specialist Examination**

A detainee or prisoner is entitled to be examined by a specialist doctor at his/her own expense, if such an examination has not already been prescribed by the Establishment's doctor.

**Article 64**  
**Consent for Treatment**

- (1) No medical treatment shall be given to a detainee or prisoner without the patient's consent and unless foreseen by health care regulations.
- (2) Notwithstanding the provision of Paragraph 1 of this Article, where the detainee or prisoner is in a mental condition in which s/he is no longer able to make an informed decision, the doctor may intervene to sustain life and restore health.
- (3) Where a detainee or prisoner has been transferred to a medical institution for reasons of mental illness, as foreseen in Articles 101 and 127, compulsory treatment may be given subject to the applicable law.

**Article 65**  
**Use of restraint for Health Reasons**

- (1) Where it is in the interest of the health of the detainee or prisoner, the doctor may order that s/he be restrained physically by clothing or belts that have been approved by the Ministry of Justice for that purpose.
- (2) Where an order for restraint for health purposes has been made by the doctor, the patient shall be examined and the order reviewed regularly by the doctor, and no less frequently than every 3 hours.
- (3) Whenever such an order is made and on each occasion that it is reviewed, the doctor will make a report that will be placed both on the patient's medical record and on the record of the medical centre. Each report will be copied to the Governor of the Establishment.

**Article 66**  
**Disability Insurance**

In the event of an accident at work, or occupational hazard, detainees and prisoners shall be entitled to disability insurance in accordance with the disability insurance regulations. The funding proposal, with a description of the characteristics and other relevant funding information, shall be submitted to the Ministry by the Governor of the Establishment, after previous consultations with a competent expert institution. Establishments in BiH shall mutually coordinate these activities for the purpose of standard harmonization.

**6. Restriction of Movement and the Right to Contact**

**Article 67**  
**Use of Physical Restraints**

- (1) Physical means of restriction of movement may only be made using clothing, belts or cuffs approved by the Ministry of Justice.

- (2) Use of physical means of restriction may only be ordered as a measure:
  1. To prevent a detainee or prisoner from escape while being brought in or
  2. In order to protect a detainee or prisoner from self-inflicted injuries or from attacking other persons or
  3. To prevent destruction of property by a detainee or prisoner.
- (3) Whenever physical restraint is ordered, the doctor shall be informed. The doctor will examine anyone subject to physical restraint regularly and no less frequently than every 3 hours. Where the doctor considers that the health of the person is being significantly adversely affected by the order for restraint s/he will instruct that the order be lifted.
- (4) The requirement for continued use of a physical restraint will be reviewed regularly and no less frequently than hourly by the Governor of the Establishment. A report will be prepared at each review. The report will be kept both on the Governor's record of incidents in the Establishment and on the detainee's or prisoner's personal record.
- (5) Physical restraint shall not be used as punishment of detainees or prisoners.

### **Article 68**

#### **Communication and Complaints**

- (1) Detainees and prisoners shall be able to communicate confidentially with the Inspector, the Ombudsman of Bosnia and Herzegovina, competent national and regional courts and a lawyer of their choice, as regulated by law
- (2) The communication shall be without the presence of the Establishment authorities. Detainees and prisoners shall also be permitted to communicate in writing, and s/he shall be issued with a letter and envelope for this purpose. The detainee or prisoner shall submit his communication sealed in the envelope. No employee may open the communication.
- (3) Detainees and Prisoners shall be entitled to file requests, appeals and other submissions to the competent authorities for the protection of their rights. The Ministry of Justice shall issue Rule Book regulating the internal consideration of such submissions.
- (4) Requests and complaints shall be settled without delay.
- (5) Notwithstanding the Rule Book for internal consideration of all submissions on prison matters, all detainees and prisoners may communicate any complaints or allegations of mistreatment to the Ombudsman of Bosnia and Herzegovina.

### **Article 69**

#### **Restriction on Use of electronic transmission**

Neither detainees nor prisoners shall be allowed to use mobile phones or any equipment capable of transmitting messages while in the Establishment.

### **Article 70**

#### **Access to other Information and Representation**

- (1) Detainees and prisoners shall have the right to be informed about the news of the world through daily papers or periodicals, radio and TV programs, and in other convenient manner, for which the Governor of the Establishment is responsible.

(2) Detainees and prisoners who are foreign citizens shall be informed on their rights to establish contact with their respective diplomatic or consular mission representing the interests of their countries, or with a national or international authority responsible for protecting interests of such persons.

#### **Article 71**

##### **Death or Serious Illness**

(1) In the event of a serious illness or death of a detainee or prisoner, the Establishment shall promptly inform his/her direct family or other persons as designated earlier by the detainee or prisoner, unless s/he, being an adult, has requested otherwise.

(2) A detainee or prisoner shall be informed of the death or serious illness of members of his/her direct family.

(3) In cases referred to in Paragraph 2 of this Article, the detainee or prisoner shall be allowed, subject to assessment of the circumstances, to go on leave to see the deceased member of his/her direct family or to attend the funeral.

(4) The remains of a detainee or prisoner shall be handed to the family.

(5) If persons from Paragraph 1 of this Article do not accept the remains of a detainee or prisoner, s/he shall be buried at the local cemetery at the expense of the Establishment.

## **7. Basic entitlements**

#### **Article 72**

##### **Right to Exercise in Open Air**

(1) All detainees and prisoners shall be entitled to spend two hours daily in the open air.

(2) All detainees and prisoners who work and stay in a closed room shall have the right to spend at least three hours per day in the open.

#### **Article 73**

##### **Minimum Needs**

The Establishment shall provide for the basic needs (items for personal hygiene and correspondence, etc.) of detainees and prisoners who do not work and for those for whom the Establishment has not ensured the possibility to work, or who have no means of their own.

#### **Article 74**

##### **Library**

(1) Each Establishment shall have a library available to all categories of detainees and prisoners.

(2) The library should have a large selection of books for entertainment as well as scientific literature, which, given the resources of the Establishment, should be continuously supplemented.

(3) Detainees and prisoners may use their own books for reading.

(4) If possible, the library should be organized in co-operation with the local library.

**Article 75**  
**Free Time Activities**

(1) The Establishment shall organize, within spare time, free time activities (sport, and various forms of cultural and educational activities), as a form of general and technical education aimed at obtaining positive habits in spending free time, once released.

(2) With the view of achieving activities referred to in Paragraph 1 of this Article, detainees and prisoners may found sport, drama, literary, music and other groups and hold performances and competitions.

**8. Work**

**Article 76**  
**Types of Jobs**

Detainees and prisoners capable of work shall, as far as the resources of the Establishment allow, be able to work in the production units of the Establishment, farms and other similar types of jobs, and on work-sites outside the Establishment.

**Article 77**  
**Organization of Work**

The organization and methods of work of detainees and prisoners should correspond to modern working standards and techniques, as well as to modern systems of management of production processes.

**Article 78**  
**Financial Proceeds of Work**

(1) Production and financial proceeds obtained as a result of the work of detainees and prisoners shall primarily be used to satisfy the needs of the Establishment and assigned to the maintenance and living costs of detainees and prisoners.

(2) The Establishment shall keep separate bookkeeping records, in compliance with bookkeeping regulations, on the financial proceeds of the work of detainees and prisoners.

(3) Revenues generated on the basis of the work of detainees and prisoners in the Establishment shall not be the revenue of the Budget of Bosnia and Herzegovina. These revenues shall be registered in accordance with relevant accountancy regulations, and shall be used in accordance with the financial plan of the Establishment.

**Article 79**  
**Working Hours**

The working hours of detainees and prisoners shall conform to relevant legislation on labour relations concerning company employees.

**Article 80**  
**Protection at Work**

Measures of protection of detainees and prisoners at work should correspond to the protection at work in companies where similar work is carried out.

**Article 81**  
**Work Insurance**

Detainees and prisoners shall be entitled to employer's liability insurance and occupational hazard insurance under the same conditions as workers employed in companies.

**Article 82**  
**Compensation for Work**

- (1) Detainees and prisoners shall be entitled to compensation for their work.
- (2) The rate of compensation shall depend on the type of work, quality and amount of work, number of working hours, and the contribution to the productivity and cost effectiveness of the business operations.
- (3) Compensation for work shall be one quarter to one half of the average salaries for equivalent work in the economy in the past three months in Bosnia and Herzegovina.
- (4) Compensation for extra working hours, work at night and work in difficult conditions shall be calculated in accordance with the labour relations regulations or on the basis of the contract, whichever is more in the detainee's or prisoner's favour.
- (5) Detainees and prisoners who attend practical training shall be entitled to 70% of the average compensation referred to in Paragraph 3 of this Article.

**Article 83**  
**Rule Book on Compensation for Work**

The Minister of Justice shall pass a Rule Book on compensation for the work of detainees and prisoners.

**Article 84**  
**Compensation When Ill**

A detainee or prisoner who falls sick while at work or in connection with work in the Establishment shall be entitled to compensation for the time s/he is prevented from work and in accordance with the health insurance regulations other than in case of deliberate self-inflicted injuries.

**Article 85**  
**Disposal of Wages**

Detainees and prisoners shall be entitled to dispose freely of the funds received as compensation for their work.

**Article 86**  
**Right to Benefit from Inventions**

A detainee or prisoner shall have the rights foreseen in legislation to benefit from inventions and technical improvements accomplished while in detention or serving a prison sentence.

**Article 87**  
**Recognition of Qualifications**

When labour relations regulations would recognise the time spent working in

a certain job as a basis for acquiring a qualification, the time spent working on the same job in the Establishment shall also be recognized for such qualification.

## **9. Disciplinary Procedures**

### **Article 88 Disciplinary Offences**

- (1) Detainees and prisoners shall be held responsible for behaviour that is in contravention of the law, house rules or orders of official staff of the Establishment.
- (2) Behaviour referred to in Paragraph 1 of this Article shall be treated as a disciplinary offence.
- (3) Disciplinary offences are:
  1. Physical assault, fighting or insulting any person;
  2. Making, using, carrying, storing, receiving, smuggling or introducing into the Establishment any object or substance that either is expressly forbidden in the House Rules of the Establishment or can be used for any of the purposes listed below:
    - a. To assault or threaten others;
    - b. To assist an escape;
    - c. As an intoxicant;
  3. Escapes or fails to return from a period when lawfully outside the Establishment;
  4. Breaches any rules on [safety at]<sup>3</sup> work, hygiene, fire precautions and prevention of consequences of natural disasters;
  5. Intentionally causes damage to the property of the Establishment or of others;
  6. Commits any indecent act in front of any other person;
  7. Fails or refuses to follow any House Rule or legitimate instruction made by any of the staff of the Establishment, obstructs any member of staff in carrying out their duties or resists any action taken by an authorised Establishment officer;
  8. Taking hostages;
  9. Participates in any uprising;
  10. Taking or extortion of money or property from other persons, so called "racketeering";
  11. Manufacturing any articles and conducting any private business for own or other people's benefit, without authorisation;
  12. Is anywhere inside or outside the Establishment where not authorised to be;
  13. Active or passive resistance to the Establishment official staff;
  14. Plans, organises, attempts or threatens any of the actions listed in paragraphs 1-11 above;
  15. Assists or incites others in any of the actions listed in paragraphs 1–12 above.



**Article 89**  
**Initiating Disciplinary Proceedings**

- (1) The procedure for establishing the disciplinary responsibility of a detainee or prisoner can be initiated by the educator, the Governor of the Establishment or a Head of an organisational unit in the Establishment.
- (2) There shall be no disciplinary proceedings taken against detainees or prisoners collectively, nor shall anyone be punished twice for the same offence.

**Article 90**  
**Disciplinary Sanctions**

- (1) The following sanctions shall be pronounced for disciplinary offences:
  1. Reprimand;
  2. Warning;
  3. Suspension of privileges;
  4. Restriction on disposal of money;
  5. Solitary confinement of up to 10 days.
- (2) The length of time for which privileges may be suspended under Paragraph 1 of this Article shall reflect the seriousness of the offence but may not exceed 1 month.

**Article 91**  
**Disciplinary Responsibilities and Appeals**

- (1) A Commission appointed by the Governor shall be responsible for the operation of the disciplinary system and the award of disciplinary sanctions.
- (2) Appeals against decisions reached by the Commission shall lie with the Governor. Such appeals shall be made within a period of three days following communication of the decision of the Commission.
- (3) In the procedure of examining the responsibility of a detainee or prisoner, s/he shall be entitled to present his/her defence.
- (4) In ruling on disciplinary sanctions referred to in Paragraph 2 of Article 90 of this Law enforcement of disciplinary sanctions may be conditionally postponed for a period of up to six months.
- (5) A conditional postponement of enforcement of a disciplinary sanction shall be revoked if the detainee or prisoner who has been issued a suspended sanction is punished again for a disciplinary offence within the term for which the enforcement is postponed.
- (6) The ruling of the Governor of the Establishment on the appeal is final. No administrative proceedings shall be instituted against it.

**Article 92**  
**Rights of Detainees and Prisoners Subject to Solitary Confinement**

- (1) During the enforcement of the disciplinary sanction of solitary confinement, the detainee or prisoner shall have necessary hygienic and health conditions and two hours daily in the open air.

(2) The detainee or prisoner shall be visited during the time spent in solitary confinement every day by the doctor of the Establishment.

(3) The Rule Book on the conditions and modalities of the execution of the disciplinary sanction of solitary confinement shall be issued by the Minister of Justice.

## **10. Special Powers of the Governor**

### **Article 93**

#### **Recovery of Costs of Damage**

(1) The Governor of the Establishment may issue a decision whereby the detainee or prisoner shall pay, as appropriate, from the compensation received for his/her work, or from the money confiscated on admission to the Establishment, or from the money sent to him/her for the damages caused intentionally or by gross negligence in the course of detention and imprisonment, as well as for the costs of being escorted in case of his/her escape and other cases of escorting, as foreseen by this Law, which are to be borne by the detainee or prisoner.

(2) A detainee or prisoner may appeal to the Minister of Justice, within 15 days from the receipt of the decision made by the Governor of the Establishment on the amount and payment of the damage.

(3) Administrative proceedings may be instituted against the decision referred to in Paragraph 2 of this Article.

(4) If the damage exceeds the value of 300 KM, and the detainee or prisoner refuses to pay, the Establishment may obtain compensation for the damage through the action for compensation with the competent court.

### **Article 94**

#### **Commission of a New Criminal Offence in the Establishment**

If a detainee or prisoner in the course of detention or imprisonment commits a new criminal offence, the Establishment shall press charges with the competent Prosecutor's Office.

### **Article 95**

#### **Administrative measure – Isolation**

(1) A measure of isolation may be pronounced on a detainee or prisoner who by his/her actions represents a serious threat to the system of execution of detention or imprisonment. It shall not exceed thirty days. In exceptional cases this measure may, following a review by the Minister of Justice, be extended. No extension granted by the Minister of Justice may be for a period of more than thirty days.

(2) During the period of isolation, the detainee or prisoner shall be kept separated from others.

(3) The enforcement of the measure of isolation shall be discontinued as described in Paragraph 3 of Article 67 should the doctor so instruct.

(4) The measure of isolation may be revoked before it expires if it is established during its enforcement that the reasons for which it was imposed have ceased to exist.

(5) The detainee or prisoner shall be visited during the enforcement of the isolation measure each day by the doctor of the Establishment.

(6) The ruling in the case referred to in Paragraph 1 of this Article shall be issued by the Governor of the Establishment, whereas the ruling referred to in Paragraph 3 of this Article shall be issued by a doctor of a relevant speciality.

(7) A detainee or prisoner has the right to appeal to the Minister of Justice against the ruling referred to in Paragraph 1 of this Article within three days from the receipt of the ruling, provided that the appeal does not stay the enforcement.

(8) The ruling referred to in Paragraph 7 of this Article issued on appeal is final and no administrative procedure may be instituted against it.

(9) The Rule Book on the conditions and modalities of the execution of the measure of isolation shall be issued by the Minister of Justice.

## **11. House Rules**

### **Article 96 Contents and Availability of House Rules**

(1) House Rules regulate more closely the organization and way of life of detainees and prisoners, and in particular: admission and allocation, communication of house rules and other regulations, accommodation, food and clothing, health care and hygiene measures, manner and conditions of satisfying religious needs, correspondence, visits and parcels, type and quantity of food products that may be received, conditions and manner of disposal of money received as compensation for work, rewards and cash remittances, manner of using continuous annual leave, maintenance of order and discipline, the system of disciplinary offences and sanctions, the conditions and manner of enforcement of disciplinary sanctions, the measure of isolation, types of privileges in the Establishment, conditions and manner of use of all privileges, the organisation of cultural, educational and sporting activities and entertainment, free activities, exercise in the open air, the operation of Detainees' and Prisoners' Councils, release and assistance in release from detention or imprisonment and other issues relevant for the conditions of detention and imprisonment.

(2) House Rules are passed by the Minister of Justice.

(3) House Rules shall be published and a copy shall be made available to every detainee and prisoner.

## **IV. PROVISIONS FOR THE EXECUTION OF DETENTION**

### **Article 97 Establishments or Units for Detention**

(1) The detention measure ruled by the Criminal Division of the Court shall be executed in a special detention unit in the Establishment or an Establishment provided for the purpose of detention.

(2) Detention units shall be of closed type.

**Article 98**  
**Treatment of Detainees**

- (1) Treatment of a detainee shall be in accordance with the relevant provisions of the Criminal Procedure Code and the relevant provisions of this Law.
- (2) On the application of the Prosecutor and if it is in the interests of justice, the Court may order limitation of specified rights of detainees.

**Article 99**  
**Confirmation of Admission**

The Establishment shall issue a letter of confirmation on the admission of a detainee with the day and hour of admission, name of the person who brought in the detainee and name of the officer who received the detainee.

**Article 100**  
**Temporary Removal**

A detainee may be temporarily taken out of the Establishment only on an order issued by the Criminal Division of the Court.

**Article 101**  
**Transfer to Medical Institution for Psychiatric Reason**

- (1) A detainee who in the course of detention becomes mentally ill, or has significant symptoms of mental disorder, shall be placed in a medical institution.
- (2) The placement as referred to in paragraph 1 of this Article shall be decided by the Court, upon the proposal made by the Governor of the Establishment and shall be based on the opinion of two doctors one of whom is a psychiatrist.
- (3) The detainee shall remain in the medical institution until the grounds for the placement cease to exist and, at most, until the end of the period of detention except where another order has been made under relevant legislation.

**Article 102**  
**Release of Detainee**

Release of a detainee from the Establishment shall be effected on the basis of the decision on suspension of detention or on the basis of expiration of the detention period.

**Article 103**  
**Official Notification of Death of Detainee**

Death of a detainee shall be immediately notified to close family members if he/she has any, to the Criminal Division of the Court and the Ministry of Justice.

**Article 104**  
**Supervision of Execution of Detention**

Supervision over the execution of detention shall be conducted by the Ministry of Justice.

## **V. PROVISIONS FOR THE EXECUTION OF IMPRISONMENT**

### **1. General provisions**

#### **Article 105**

##### **Purpose of Prison Sentence**

The purpose of a prison sentence is to punish the offender as determined by the Court and to enable prisoners, through a system of modern educational measures, to adopt socially acceptable values with the aim of easier social reintegration when released and to behave as responsible law abiding citizens.

#### **Article 106**

##### **Individualized Treatment**

- (1) Prisoners should be treated in a manner that meets their individual needs and responds to the outcomes of treatment already given.
- (2) There shall be assessment and classification of prisoners for the purpose of achieving successful treatment.

#### **Article 107**

##### **Participation in Treatment**

- (1) A sense of personal responsibility should be developed in prisoners. They shall be encouraged to participate in their own treatment.
- (2) While serving a prison sentence, prisoners shall participate in educational, cultural, sport and other activities.
- (3) In order to encourage participation and personal responsibility Prisoner's Councils may be established.

#### **Article 108**

##### **Work of Prisoners**

- (1) Within the resources of the Establishment, prisoners shall be allowed to work in accordance with their psychophysical capacities and professional skills.
- (2) The work of prisoners should be useful and, to the extent possible, congruent with the modern working methods of the same type of work at liberty.
- (3) The purpose of this work is to enable prisoners to acquire, maintain or increase their working skills, working habits and professional knowledge in order to be capable of social reintegration when at liberty.
- (4) The means achieved by prisoners through their work in the Establishment shall be used for their personal needs during their time served in the Establishment, for the payment of legal subsistence at their expense and their other legal obligations in accordance with the law and decisions based on the law, issued by courts and other competent bodies.
- (5) Achievement of economic gain from the work of prisoners shall not be to the disadvantage of the purpose of their work.

## **Article 109**

### **Vocational Training**

(1) Where necessary, there shall be general and vocational training organized for prisoners.

(2) With the aim of achieving general education and treatment of prisoners while serving sentence, there shall be various forms of classes, training, free activities, cultural and educational work and physical exercise, reading of books and daily papers, watching TV programs, visits to cultural and sport events, when security conditions are satisfied, as well as use of other means of information.

## **Article 110**

### **General Provision on Conditional Release**

In order to encourage personal efforts of prisoners in social reintegration when at liberty, prisoners who are reasonably expected to resettle successfully and not commit criminal offences, may be conditionally released in accordance with Article 44 of the Criminal Code.

## **Article 111**

### **Support on Release**

(1) The competent authorities, institutions and other legal persons shall give prisoners on release such support as is necessary to provide for their effective social reintegration.

(2) The support referred to in paragraph 1 shall include, but shall not be limited to, finding a temporary accommodation and securing food, essential medical treatment, finding new environment where the convicted person will live, assistance in settling family relations, in finding employment and completing a previously started professional training, as well as providing pecuniary assistance for the most essential needs.

## **2. Commitment to a Prison Sentence**

### **Article 112**

#### **Establishments and Institutions Competent to Hold Prisoners**

(1) Prisoners shall serve their sentence in an Establishment for the execution of criminal sanctions of Bosnia and Herzegovina or such other institution as is identified as most suitable for the attainment of the objectives of the prison sentence.

(2) Other institutions referred to in paragraph (1) of this Article shall be the institutions referred to in Article 203 of this law, or institutions specified by the BiH Ministry of Justice.

### **Article 113**

#### **Confiscation of Travel Documents**

(1) For the purpose of execution of a prison sentence, the President of the Criminal Division of the Court shall commit prisoners. If his/her assessment is that such a person, who is a holder of travel documents, shall, by going abroad, obstruct enforcement of the sentence, s/he shall request from the competent authority to confiscate the person's travel documents, until the sentence has been executed.

(2) Where a travel document is confiscated a writ shall be served.

#### **Article 114** **Effecting Order to Commit**

(1) The Criminal Division of the Court shall summon convicted persons at large and inform them to report to serve their prison sentence.

(2) The date of reporting to the Establishment shall be determined in such a way as to leave the convicted person at least eight (8) days, fifteen (15) at most, before the beginning of serving the sentence.

(3) Together with the writ, the convicted person shall be served a personal commitment document, and a travel ticket, if public transport is to be used.

(4) The Criminal Division of the Court, when committing a convicted person to a prison sentence shall, at the same time, or within three days at the latest, inform the Establishment concerned.

(5) The commitment document shall include a copy of the judgement and one copy of the criminal record.

(6) For persons committed to the Establishment before the judgment is final and legally valid, the Criminal Division of the Court shall deliver a copy of that judgment to the Establishment together with the decision on the commitment to a prison sentence.

(7) The Establishment shall, within eight days, notify the Criminal Division of the Court of the date on which the committed person should commence serving prison sentence.

(8) If the convicted person who is at large does not report on the day when s/he is to commence serving prison sentence, the Establishment shall notify the Criminal Division of the Court within three days since the day scheduled for the reporting to the Establishment.

(9) If a duly committed convicted person fails to report to the Establishment within the term as determined, the Court shall order issuance of a warrant instructing the Court Police to bring him/her in by force.

(10) If a convicted person is hiding or absconding, the Court shall order issuance of a warrant to the competent law enforcement authority.

(11) Once a convicted person has been arrested, s/he shall be escorted to the Establishment.

(12) Expenses for arrests in cases referred to in Paragraphs 9 and 10 of this Article shall be borne by the convicted person.

#### **Article 115** **Beginning and Calculation of Prison Sentence**

(1) The beginning of a prison sentence shall be counted from the day when the convicted person reports to the Establishment, or when s/he is brought in to the Establishment.

(2) Time spent unlawfully at large shall not count towards the calculation of the release date.

**Article 116**  
**Rule Book on Commitment to Prison Sentence**

The Minister of Justice shall pass a Rule Book on criteria for committing convicted persons to imprisonment.

**Article 117**  
**Supervision of Work of Court Administration by Ministry of Justice**

The Ministry of Justice shall be responsible for the supervision and inspection of the work of the Court Administration in committing sentenced and convicted persons to serve prison sentence.

**3. Postponement of the execution of the sentence**

**Article 118**  
**Circumstances in which Postponement is Possible**

(1) A convicted person who is at liberty can be granted, upon his/her request, or upon the request by immediate family members and approved by him/her, or upon the request made by the competent municipality social welfare authority, postponement of serving prison sentence:

1. If suffering from severe acute disease;
2. Due to the death or severe disease in their immediate family;
3. If postponement is necessary for carrying out or completing farming or seasonal works that cannot be delayed, or works caused by natural disasters or other catastrophes, and the family of the convicted person has no other members capable of work, nor can it, due to the poor financial status or other justified reason, engage other persons to take care of such works;
4. If the convicted person is obliged to finish certain activity that s/he has already started, and failure to finish it would result in major damage for him or his close family, or for the person or organization towards whom/which he has an obligation that cannot be avoided otherwise;
5. If postponement is necessary to complete education or to take exams for which s/he is studying;
6. If together with the convicted person, the sentence is to be served by a spouse or other members of the common household, or if some of them are already serving the prison sentence and serving the sentence simultaneously by all these persons would be detrimental to the support of minors, ill or elderly members of their household;
7. If a convicted person is a woman nursing her baby younger than 1 year of age, or who is pregnant;
8. If the convicted person is a sole provider and serving of the sentence would be detrimental to the support of the family;
9. If a pardon petition has been submitted.

(2) Execution of the sentence referred to in Paragraph 1 subparagraph 1 of this Article may be postponed for the duration of the disease, in cases referred to in subparagraphs 2, 3 and 4 for three months at most, and in cases referred to in



subparagraphs 5, 6 and 8, six months at the most and, in cases referred to in subparagraph 7, the postponement may be until the child is one year old.

(3) In cases referred to in Paragraph 1 subparagraph 1 of this Article, the convicted person shall submit evidence on his/her condition to the Criminal Division of the Court at three monthly intervals.

### **Article 119**

#### **Request for Postponement**

(1) A request for postponement of execution of prison sentence shall be submitted within three days from the day the document on committing, as referred to in Paragraph 3 of Article 114 of this Law, was served.

(2) If the reason for postponement referred to in Paragraph 1, subparagraph 1 of Article 118 occurred after the expiration of a three day term, the request may be lodged until the day when the convicted person is due to report for serving the sentence.

(3) The request shall contain all the reasons and evidence on circumstances justifying such request.

(4) The evidence on circumstances referred to in Paragraph 1 subparagraphs 1, 2, 5, 6 and 7, of Article 118 of this Law shall be provided by the competent authority, whereas those referred to in subparagraphs 3, 4 and 8, the local community where the permanent residence of the convicted person is.

(5) The request for postponement shall be considered by the Criminal Division of the Court which shall deliver its decision within five days upon the receipt of the request.

(6) Before the Criminal Division of the Court makes its decision, it may undertake any action necessary to verify the facts presented in the request.

(7) Untimely requests and requests with no reasons, evidence or facts presented shall be dismissed by the decision of the Criminal Division of the Court.

(8) The execution of the sentence shall not be postponed if the sentence is barred by a statute of limitations.

(9) The overall postponement of the execution on all the grounds shall not be more than 12 months, except in the case referred to in Paragraph 1, subparagraph 7 of Article 118 of this Law.

(10) The beginning of the execution of the prison sentence shall be postponed until the decision on the request has been made.

### **Article 120**

#### **Appeal**

(1) The convicted person shall be entitled to file an appeal to the President of the Court against the decision rejecting or dismissing his/her request for postponement of the execution of the prison sentence within three days upon the receipt of the decision.

(2) The appeal shall stay the execution.

(3) The President of the Court shall issue a decision on the appeal referred to in Paragraph 1 of this Article within three days of the receipt of the appeal, and refer it to the Criminal Division of the Court within five days from the day the decision is made.

(4) Administrative proceedings may not be instituted against the decision delivered by the President of the Court.

(5) The Court shall inform the Establishment on the postponement of the execution of prison sentence.

#### **Article 121 Military Service**

(1) A person called up for military duty who has been sentenced to imprisonment shall be committed to serve his prison sentence prior to serving the military duty.

(2) A person who is summoned to serve prison sentence while serving his military duty shall have his prison sentence postponed until completion of the military duty, unless the execution of the sentence is subject to a statute of limitation in the meantime.

#### **Article 122 Postponement on the motion of the Prosecutor**

(1) When the Prosecutor, based on legal authorization, requests postponement of execution of a prison sentence, the Criminal Division of the Court shall not summon the convicted person. Where s/he has already been summoned but the term for reporting to the Establishment has not expired, the Court shall deliver a decision on postponement of the prison sentence.

(2) Postponement of the execution of a prison sentence, as described in Paragraph 1 of this Article shall last until the Prosecutor notifies the Court that it can begin the execution of the prison sentence, that is, until the decision on legal remedy of the Prosecutor is issued.

### **4. Reception into the Establishment**

#### **Article 123 Initial Placement in Registration Unit**

(1) A sentenced person shall be admitted to the Establishment on presentation of the personal commitment document issued by the Court.

(2) When being admitted to the Establishment, the identity of the sentenced person shall be established. Then s/he shall be placed in the Registration Unit.

(3) A person sentenced to imprisonment for up to one year shall be detained in the Registration Unit for up to 15 days, while persons sentenced for imprisonment over one year shall be detained in the Registration Unit for 30 days at the most.

#### **Article 124 Registration Process**

(1) The name of each sentenced person shall be entered in the register in the Registration Unit. A personal file shall be made for him/her.

- (2) Persons sentenced to imprisonment over six months shall be photographed.
- (3) During detention in the Registration Unit, a proposal for the treatment of the prisoner shall be prepared.
- (4) Instructions on the register book, personal file and the manner for determining the treatment of each prisoner shall be issued by the Minister of Justice.

**Article 125**  
**Review and Reclassification**

Re-classification of prisoners shall be undertaken in the course of the execution of a prison sentence, depending on the success achieved in the treatment. A review of the prisoner's progress will be conducted no less frequently than annually for this purpose.

**Article 126**  
**Notification of Date of Admission and Release**

The Establishment shall immediately inform the competent authority of internal affairs on whose territory the permanent or current residence of a prisoner is, as well as the competent authority where the prisoner's military records are kept, of the date of admission and date of release.

**5. Management of a prisoner's sentence**

**a) Special Provisions**

**Article 127**  
**Transfer to Medical Institution for Psychiatric Reason**

- (1) A prisoner who in the course of serving prison sentence becomes mentally ill, or has significant symptoms of mental disorder, shall be placed in a medical institution.
- (2) The placement as referred to in Paragraph 1 of this Article shall be decided by the Minister of Justice, upon the proposal made by the Governor of the Establishment and shall be based on the opinion of an expert team of doctors appointed by the Minister.
- (3) The convicted person shall remain in the medical institution until the grounds for the placement cease to exist and, at most, until the end of the prison sentence except where another order has been made under relevant legislation.

**Article 128**  
**Time Spent in Medical Institution**

Any time spent by convicted persons in a medical institution outside the Establishment, as foreseen in Paragraph 3 of Article 62 and Paragraph 1 of Article 127 of this Law shall count towards the calculation of their sentence.

## **b) Work and Compensation**

### **Article 129 Assignment to Work**

- (1) The work to which prisoners are assigned shall be decided on the basis of their treatment program, their psycho-physical capacities, inclinations, personal traits and acquired professional skills, as far as the resources of the Establishment allow and in compliance with the needs of maintaining discipline.
- (2) When assigning to a particular type of job, the wishes of prisoners shall be taken into account.

### **Article 130 Continued Work with Previous Employer**

- (1) A prisoner and enterprise serving a sentence of up to three months, and who is employed, may, in the course of serving the prison sentence, continue working in the company in which previously employed, if s/he agrees to it and if it is feasible given the distance from the company.
- (2) Mutual rights and obligations in the case referred to in Paragraph 1 of this Article shall be regulated by a contract concluded between the Minister of Justice and the authorized person of the respective company.
- (3) For the purpose of this Article, the enterprise shall mean any legal entity (company, institution, shop etc.) where the prisoner has been employed.

### **Article 131 Time Off Work**

Prisoners shall be entitled to have a daily break, a minimum of one day off per week and sufficient time for education and other activities in accordance with their treatment program.

### **Article 132 Earnings Subject to Enforcement of Court Decision**

One half of the compensation that a prisoner receives for his/her work may, as an exception to the provision in Article 82 of this Law, be subject to the enforcement of the competent court decision that the prisoner is obliged to support his/her children, spouse or parents, or to compensate for the damage incurred by a criminal offence or to fulfil other obligations.

### **Article 133 Annual Leave**

- (1) A prisoner who has spent eleven months working continuously, including any period of medical treatment for injuries at work or occupational hazard caused by working in the Establishment, shall have the right to continuous leave of at least 18 and not more than 30 days a year.
- (2) A prisoner sentenced for up to one year imprisonment and who has spent six months working continuously, shall have the right to one day leave for each working month.

(3) During their leave, prisoners shall continue to receive pay in accordance with labour relations regulations.

(4) The duration and manner of taking leave referred to in Paragraphs 1 and 2 of this Article shall be regulated by the House Rules.

### **c) Education**

#### **Article 134 Organization of Education**

(1) The Establishment shall organize educational classes and vocational training for juvenile prisoners and younger adults who have not completed primary school, so that they may achieve standards of general education that conform with regulations on primary and secondary education.

(2) When considered useful and necessary, the arrangements referred to in Paragraph 1 of this Article shall be made for other prisoners as well.

(3) If more convenient, the Establishment may conclude a special contract on co-operation with a local school in order to organize the instruction referred to in Paragraph 1.

(4) Subject to [security]<sup>4</sup> considerations, and if, in the treatment program, it has been assessed necessary and useful for the purpose of achieving the objective of the execution of the sentence, prisoners may also become part-time correspondence students or participate in courses organized outside the Establishment.

(5) Prisoners who complete their schooling or acquire qualifications in the Establishment shall receive diplomas. Such diplomas shall not indicate that the general or any other educational qualification has been acquired in the Establishment.

#### **Article 135 Regulations on Education**

The relevant regulations on primary and secondary education of the Entities or cantons shall apply to the school operated by the Establishment.

### **d) Communications and Privileges**

#### **Article 136 Correspondence and Telephone**

(1) Prisoners shall be entitled to communicate freely, by correspondence and telephone, with their family and persons or representatives from organizations that can assist in their treatment.

(2) Exceptionally, if required for [security]<sup>5</sup> reasons, the Establishment may intercept correspondence or telephone conversations. The prisoner shall be informed of any such interception.

## **Article 137**

### **Visits**

- (1) Prisoners shall be entitled to visits from members of their family and friends, and to visits by other persons on the approval of the Governor of the Establishment and in accordance with the House Rules.
- (2) Foreign prisoners shall be entitled to visits by their diplomatic and consular representatives or representative of the country protecting their interests, in compliance with international law and within the limits stipulated by the House Rules.
- (3) The right referred to in Paragraph 2 of this Article may be denied only in cases where such a right is denied to diplomatic and consular representatives of Bosnia and Herzegovina in the country whose citizen the concerned prisoner is, unless otherwise stipulated by a special law.
- (4) Within the limits stipulated in the House Rules, stateless persons and refugees shall be entitled to visits by institutions that protect the interests of stateless persons or refugees.

## **Article 138**

### **Parcels**

Prisoners shall have the right to receive parcels with underwear, personal hygiene items, books and magazines, and money, from close family members. They may freely dispose of such items in compliance with the House Rules.

## **Article 139**

### **Privileges**

- (1) Prisoners may be granted privileges for good conduct and hard work.
- (2) Privileges shall be a set of stimulating measures aimed at giving support to a prisoner, alleviating the consequences of deprivations, encouraging individual participation in treatment programs, strengthening responsibility and self confidence with the purpose of enabling a prisoner to live an independent life respecting the law and norms of civic society.
- (3) Privileges shall be authorised by the Governor of the Establishment, or by a person authorised by him/her.
- (4) Privileges may be used within the Establishment or outside.

## **Article 140**

### **Free movement, leave and furlough**

Prisoners may be granted the following privileges to be used outside the Establishment:

1. A period of 24 hour leave outside the Establishment for each seven days of prison sentence served (four times a month, normally to be used at weekends);
2. To go to town freely five hours once a week;
3. Up to six days' leave each year. After serving each period of two months, a prisoner may be granted one day of leave;

4. Up to seven days' leave each year in the event of serious illness or death of a family member, natural disaster or in very difficult social cases;
5. Up to 2 days a year leave outside the Establishment, on religious holidays;
6. Up to 1 day's leave a year outside the Establishment, on national holidays;
7. Annual holiday with family members.

#### **Article 141**

##### **Limitation on Access to Privileges**

(1) The following persons shall not be granted privileges to be used outside the Establishment prior to the expiration of one half of the prison sentence:

1. Persons convicted for up to ten years in prison for crimes of genocide, crimes against humanity, war crimes, terrorism, illicit production and trafficking in drugs, preventing the return of refugees and displaced persons;
2. All prisoners sentenced to more than ten years, regardless of the type of criminal offence;
3. Alcohol abusers, drug addicts and multiple recidivists.

(2) Persons sentenced to prison for between five and ten years who have not committed criminal offences referred to in Paragraph 1 subparagraph 1 and 2 of this Article and are not multiple recidivists, alcohol abusers or drug addicts, may be granted privileges to be used outside the Establishment after one third of the prison sentence has been served.

(3) Other prisoners shall be granted privileges to be used outside the Establishment after one quarter of the prison sentence has been served.

(4) The opinion of the competent police authority and the competent municipality social welfare authority shall be required when granting privileges referred to in Article 140 to prisoners who have committed criminal offences referred to in Paragraph 1 Subparagraph 1 and 2 of this Article, and to those in respect of whom it has been assessed that their being at liberty might cause public outrage.

(5) The criteria referred to in Paragraphs 1, 2, 3 and 4 of this Article shall not apply to the authorisation of privileges referred to in Paragraph 4 of Article 140 of this Law which is to be used in exceptional cases only.

(6) The prisoner shall, together with the request for the privilege referred to in Paragraph 4 of Article 140 of this Law, give the reasons for applying for leave in writing.

(7) Failure to return from a period of leave within 24 hours of the expiry of the authorised period without justification shall be considered an escape.

(8) The privileges referred to in Article 140 of this Law shall not be used outside the territory of Bosnia and Herzegovina.

#### **Article 142**

##### **Rules on Use of Privileges**

(1) The conditions and the manner for using the privileges referred to in Article 140 of this Law as well as those which are used inside the Establishment, shall be prescribed by the House Rules.

(2) Appeals against decisions on the use of privileges can be made to the Ombudsman of Bosnia and Herzegovina.

#### **e) Powers Following Isolation**

##### **Article 143 Transfer to Special Unit**

(1) If after the enforcement of the measure of isolation the reasons for which the order was made have not ceased to exist, the prisoner may be transferred to a special unit of an Establishment of closed type with reinforced supervision as referred to in Article 152 of this Law.

(2) The prisoner shall stay in the special unit referred to in Paragraph 1 of this Article until the reasons for which s/he has been placed in this unit have ceased to exist.

(3) In the case referred to in Paragraph 1 of this Article the provisions of paragraphs (6), (7) and (8) of Article 95 of this Law shall apply accordingly.

#### **6. Suspension of a Prison Sentence**

##### **Article 144 Power to Suspend Sentence**

(1) A prisoner may be allowed to suspend his/her serving of sentence.

(2) The provisions of Articles 118, 119, 120, 122 of this Law shall apply accordingly to the suspension of a prison sentence.

(3) Where the Criminal Division of the Court orders detention for another criminal offence the prison sentence shall be suspended.

(4) Serving of a prison sentence may be suspended by a decision of the Criminal Division of the Court.

(5) The suspension referred to in Paragraph 4 of this Article shall be determined by a panel of three judges of the Court.

##### **Article 145 Procedure for Submission of Application**

Any application filed by a prisoner, together with the opinion of the Establishment, shall be delivered to the Criminal Division of the Court within three days.

##### **Article 146 Appeal Against Ruling of the Court**

(1) A prisoner may appeal against the ruling referred to in Paragraph 4 of Article 144 of this Law to the President of the Court within three days from the receipt of the ruling.

(2) The decision upon the appeal shall be final with no right to institute administrative proceedings against it.

(3) The period of the suspension of the prison sentence approved by the Court shall not count towards the time served.



**Article 147**  
**Reverse of Ruling on Suspension**

(1) If, during the suspension of the prison sentence, it has been assessed that the circumstances, due to which the suspension was allowed, have ceased to exist, or that the suspension was granted on the basis of false documents or other evidence, that is, that the suspension is not used for the purpose for which it was granted, the rulings referred to in Article 144 146 of this Law shall be reversed, and the prisoner shall be ordered to report to continue serving the prison sentence immediately, and not later than three days from the receipt of the ruling.

(2) The ruling referred to in Paragraph 1 of this Article shall be served to the Establishment and to the prisoner concerned.

(3) A prisoner may appeal against the ruling referred to in the previous paragraph within 3 days. Appeal shall not stay the execution.

(4) If the prisoner fails to report to continue serving the sentence, the Establishment shall take actions pursuant to the provisions of Paragraphs 8 to 11 of Article 114 of this Law.

**7. Transfers during sentence**

**Article 148**  
**Application and Decision for Transfer**

(1) If a prisoner has served one half of the prison sentence and uses annual leave with his/her family, s/he may apply to be transferred to another Establishment in the Entity where s/he resides either permanently or temporarily.

(2) The transfer of the prisoner shall be decided by the Minister of Justice, given the opinion by the Establishment.

(3) If the request for transfer has been submitted prior to the term referred to in Paragraph 1 of this Article, it shall be ruled inadmissible on grounds of it being untimely.

(4) When the request has been refused, a new request may be submitted after six months from the day the former ruling becomes final.

(5) An appeal to the Ministry of Justice against the ruling referred to in Paragraph 2 of this Article may be filed within three days.

**Article 149**  
**Managerial Decision on Transfer**

(1) The Governor of the Establishment may propose the transfer of a prisoner to another Establishment in the Entity in which the prisoner has permanent or temporary residence for the purpose of more effective implementation of the treatment program or for security reasons.

(2) The Minister of Justice may instruct the transfer without the opinion of the Governor.

(3) Costs of the transfer shall be borne by the Establishment.

## **Article 150**

### **Appeals**

- (1) Appeals against the ruling on transfer shall not stay the execution of the ruling.
- (2) The ruling upon appeals referred to in Paragraph 5 of Article 148 shall be final with no right to institute administrative proceedings against them.

## **8. Execution of long-term prison sentence**

### **Article 151**

#### **General Provision**

The provisions of this Law on the execution of prison sentences shall apply to the execution of long-term prison sentences unless otherwise provided by Articles 152 to 155 of this Law.

### **Article 152**

#### **Reinforced Supervision**

- (1) A long-term prison sentence may be executed in a special unit of the Establishment of closed type in facilities separated from those where other prisoners are accommodated and with measures of reinforced supervision.
- (2) Reinforced supervision shall be construed to include observation and more frequent control of prisoners by day and night, and shall be conducted in a manner that does not interfere with everyday activities.
- (3) Persons serving long-term prison sentences may be classified into special treatment groups, with one trainer per 25 prisoners.

### **Article 153**

#### **Restriction of Access to Privileges**

Persons who serve a long-term prison sentence shall not be granted privileges to be used outside the Establishment before two thirds of the sentence have been served.

### **Article 154**

#### **Restriction on Employment**

Prisoners serving a long-term prison sentence shall not be employed in jobs outside the Establishment until they are granted privileges that are to be used outside the Establishment.

### **Article 155**

#### **Controls on Communication**

Prisoners serving long-term prison sentences shall have their correspondence and telephone conversations controlled.

## **9. Release**

### **a) Conditional Release**

#### **Article 156**

#### **Commission for Conditional Release**

(1) In order to encourage prisoners to address problems and situations that have lead them to commit criminal acts, a system of conditional release is being introduced. This provides for a prisoner who is assessed as no longer presenting an unacceptable risk to the community to be conditionally released.

(2) The Commission for Conditional Release of prisoners whose sentence was pronounced by the Court, and who are serving their sentences in an Establishment of Bosnia and Herzegovina shall decide on their conditional release. The Minister of Justice shall appoint this Commission.

(3) The Commission has 5 (five) members of whom one shall be the President. There will be a quorum of three members for any decision.

(4) The Commission shall be composed of one representative each of the Court, and the Ministry of Justice, and three (3) independent members of relevant specialist expertise. The members of the Commission shall be appointed for a period of 5 (five) years, with the possibility of reappointment for one more mandate. In case of eventual end of mandate of a member of the Commission, the mandate of his/her deputy shall last until the end of the current mandate of the Commission. This appointment shall not be an obstacle for the reappointment as a Commission member as far as the number of mandates are concerned, if the remaining mandate time of the Commission is less than two years.

(5) The Commission is independent in its work. Members may resign at any time, and they can also be dismissed but only if found violating their duty, due to a committed criminal act or for other serious reasons, established in the procedure. A decision on dismissal of the President or any member of the Commission, should grounds for dismissal be proved, shall be issued by the Minister of Justice.

(6) The Commission shall issue a Rule Book on its work.

#### **Article 157**

#### **Information to be provided to the Commission**

(1) The Commission shall take a decision on conditional release on the basis of an application by the prisoner, or with his consent, on the basis of an application by a member of his/her close family or based on a proposal by the Governor of the Establishment.

(2) Applications shall be submitted to the Commission through the Establishment.

(3) The Establishment shall, together with the application, submit information on the success achieved in the treatment programme of the prisoner, information about earlier convictions, a description of the criminal act, information about the prisoner's behaviour, all other reports done by other professionals engaged in working with the prisoner and other information relevant to the decision. The prisoner's application will be accompanied by an assessment by the Establishment on the admissibility of the application.

(4) In reaching its decision on conditional release the Commission will restrict itself to the following criteria:

1. History of criminal offences;
2. Behaviour in the Establishment;
3. Participation in treatment;
4. Attitude towards the victim;
5. Risk of further offending;
6. Adequacy of resettlement proposal.

(5) All reports prepared by the Establishment for the Commission shall be made available to the prisoner who shall be given opportunity to make written submissions to the Commission on their contents.

#### **Article 158**

##### **Communication of the Commission's Decision**

(1) Conditional release is approved or rejected by a decision. Decision shall be reasoned.

(2) The decision of the Commission shall be sent to the Establishment, which is then obliged to deliver one copy each to the prisoner and the Court.

(3) If the request is submitted by a close family member, the outcome shall be communicated to that person by the Ministry of Justice.

#### **Article 159**

##### **Revoking of Decision to Release**

If the prisoner, after the ruling on conditional release and before the day of conditional release, commits a disciplinary offence, the Commission may revoke the decision.

#### **Article 160**

##### **Appeal and Re-application**

(1) No appeal may be initiated against the ruling of the Commission under Article 159 of this Law for conditional release nor can administrative proceedings be instituted.

(2) A prisoner shall have the right to re-apply for conditional release 1 (one) year after the last decision of the Commission or after such shorter period as the Commission may determine in which case it will also be decided on the request for an early approval of filing a request for conditional release and on the approval of conditional release.

#### **Article 161**

##### **Annual Report**

The Commission shall send an annual report on its work to the Minister of Justice.

#### **Article 162**

##### **Governor's Power to Conditionally Release**

(1) The Governor of the Establishment can conditionally release a prisoner with good behaviour, who does his best at work and actively participates in the re-

education process, and has served at least 4/5 (four fifths) of his sentence, up to 3 (three) months before completion of the sentence.

(2) This provision on conditional release shall not apply to persons to whom a fine has been replaced by prison sentence.

## **b) Release of prisoners**

### **Article 163 Date of Release**

(1) A prisoner shall be released from the Establishment on the day when his/her sentence expires, or on the day when conditional release starts.

(2) If the last day of serving the sentence falls on a public holiday or on any other day when the Establishment is not working, the prisoner shall be released on the last working day preceding it.

(3) As an exception to the provision referred to in Paragraph 2 of this Article, when a fine has been replaced by a prison sentence, the prisoner shall be released from the Establishment on non working days as well.

(4) The Establishment shall inform the Criminal Division of the Court of the release of each prisoner within eight days.

### **Article 164 Assistance on Release**

(1) A person who is released from the Establishment shall be entitled transportation costs to the place of his/her family home or former residence, or if s/he is a foreigner, to the border crossing. Exceptionally, after a detailed request by the released person, travel expenses to another place by his/her choice on the territory of Bosnia and Herzegovina shall be approved.

(2) The transportation costs shall be borne by the Establishment.

(3) If the prisoner to be released has no clothes or footwear, nor any means to buy them, the Establishment shall provide appropriate clothing.

(4) If the prisoner is seriously ill at the time of release from the Establishment and because of this is incapable of travelling, the Establishment shall place him/her into the closest medical institution for treatment. If the prisoner is not able to pay for the costs of medical treatment, and the illness occurred during imprisonment, the costs for the first month of the treatment shall be borne by the Ministry of Justice, and after that by the municipality in which the prisoner had permanent or temporary residence at the time of committal to the Establishment.

### **Article 165 Notification of Address on Release**

(1) A person who is being conditionally released shall, at the time of release from the Establishment, give the address where s/he will reside during the conditional release. The person conditionally released, shall, on arrival report to the authorities referred to in Article 126 of this Law.

(2) Should a conditionally released person change their place of residence they shall inform thereof the authorities referred to in Paragraph 1.

**Article 166**  
**Certificate of Completion of Sentence**

(1) Each person conditionally released shall be issued with a certificate of completion of sentence.

(2) The certificate referred to in Paragraph 1 shall be issued by the Governor of the Establishment.

(3) The format and the content of the certificate referred to in Paragraph 1 shall be prescribed by the Minister of Justice.

**VI. EXECUTION OF JUVENILE PRISON SENTENCE**

**Article 167**  
**General Provision**

The provisions of this Law shall apply to the execution of a juvenile prison sentence, unless otherwise provided in Articles 168 to 173 of this Law.

**Article 168**  
**Placement in Special Unit or Establishment**

(1) A juvenile prison sentence shall be served in a special unit for juveniles in the Establishment or in a special Establishment in the Entity where the prisoner has permanent or temporary residence, where juvenile persons may stay until they reach 23 years of age, and if they have not served their sentence by then, they shall be transferred to the Establishment where adult prisoners serve prison sentence.

(2) As an exception to the provision in Paragraph 1 of this Article, a person who reached 23 years of age may remain in the Establishment for juveniles or in a special unit, if it is necessary for completion of his/her education or vocational training until 25 years of age at maximum.

(3) Juvenile prisoners shall have premises separated from those for other prisoners, if they stay in a special unit.

**Article 169**  
**School in Establishment**

(1) In the Special Unit or Establishment referred to in Articles 168 of this Law, there shall be primary and secondary school in the Special unit or Establishment, in accordance with the regulations on primary and secondary schools, or there shall be established forms of primary or secondary school in the Special unit or Establishment established in co-operation with appropriate primary or secondary school to provide for the education of such persons.

(2) A juvenile prisoner may in exceptional cases and under supervision of the educator, attend school outside the Establishment in order to complete an educational programme they already started, if the security situation and the treatment programme allow.

**Article 170**  
**Sports**

- (1) Juvenile prisoners shall be provided with opportunities for sports.
- (2) The Minister of Justice shall pass a Rule Book on sports for juveniles.

**Article 171**  
**Correspondence**

- (1) Juvenile prisoners shall have no restriction on their correspondence with their parents and other close relatives.
- (2) Close relatives referred to in this Article shall include parents, brothers and sisters, step brothers, step sisters and grandparents of the juvenile if they were especially close, about which an opinion shall be obtained from the social services of the juvenile's residence municipality, etc.

**Article 172**  
**Leave**

- (1) A juvenile prisoner who behaves well and studies hard may be granted leave by the Governor of the Establishment to visit parents or other close relatives.
- (2) The leave may be granted twice a year and shall not exceed 20 days each.
- (3) Privileges referred to in Paragraphs 1 and 2 of this Article may be granted to persons who have not reached 23 years of age.

**Article 173**  
**Solitary Confinement**

- (1) A juvenile prisoner who has not reached 23 years of age may exceptionally be pronounced the disciplinary measure of solitary confinement for a period of up to five days.
- (2) A juvenile prisoner who attends school shall be able to regularly attend school during solitary confinement and to read technical books and do homework.

**Article 174**  
**Administrative Measure - Isolation**

Measures of isolation shall not be applied to juvenile prisoners who have not reached 23 years of age.

**VII. EXECUTION OF FINES IN CRIMINAL PROCEEDINGS**

**Article 175**  
**Provisions of the Criminal Code**

The Execution of fines shall be carried out in accordance with the relevant provisions of the Criminal Code.

## **VIII. EXECUTION OF PROTECTIVE GUARDIANSHIP PRONOUNCED WITH SUSPENDED SENTENCE**

### **Article 176**

#### **Purpose of Protective Guardianship**

The purpose of protective guardianship measures referred to in Article 66 of the Criminal Code is to support social rehabilitation of the perpetrator of the criminal offence during the period of probation through assistance, care, supervision and protection.

### **Article 177**

#### **Guardianship in Place of Residence**

Protective guardianship shall be conducted by the social welfare authority in the place of permanent or temporary residence of the perpetrator of the criminal offence.

### **Article 178**

#### **Costs**

(1) The costs protective guardianship shall be borne by the municipality on the territory of which the perpetrator of the criminal offence had his permanent or temporary residence at the time these measures were pronounced, unless provided otherwise by law.

(2) Adequate financial and other means shall be provided to the Municipality for the execution of measures under the previous Paragraph.

### **Article 179**

#### **Judgment and Data to be Delivered to the Social Welfare Authority**

The Criminal Division of the Court shall refer to the competent municipal social welfare authority together with the enforceable judgment all relevant data on the personality of the perpetrator of the criminal offence that it obtained during the proceedings and, in particular, medical documentation and the findings and opinion of expert court witnesses.

### **Article 180**

#### **Actions to be taken by Social Welfare Authority**

(1) After the receipt of the enforceable judgment, data and documentation referred to in Article 179 of this Law, the competent municipal social welfare authority shall, depending on the type of measure of protective guardianship, undertake necessary actions to establish co-operation with the relevant medical institution, psychological counselling services or employment bureau, and, if necessary, with other institutions and organizations.

(2) The competent municipal social welfare authority shall, within 15 days from the receipt of the enforceable judgment, data and documentation referred to in Paragraph 1 of this Article, inform the perpetrator of the criminal offence who was pronounced the measure of protective guardianship on the actions it has taken, and advise him/her of his/her obligations in the course of the measure of protective guardianship.



**Article 181**  
**Committal of the Perpetrator to the Relevant Institution**

The competent municipality social welfare authority shall, depending on the type of protective guardianship measure, refer the perpetrator of the criminal offence to the relevant medical institution, psychological counselling service, other institution or organization and inform him/her on the obligation to act in compliance with received advice and instructions, as well as on his/her duty to visit the municipality social welfare authority as it instructs.

**Article 182**  
**Co-operation with Perpetrator's Family**

In the course of enforcement of the protective guardianship measure, the municipality social welfare authority shall co-operate with the family of the perpetrator of the criminal offence with the aim of handling his/her family situation.

**Article 183**  
**Information on Results**

- (1) The competent municipality social welfare authority shall, at least once in six months or, when the Criminal Division of the Court requests it, inform it on the results of the enforcement of the protective guardianship measure.
- (2) If the perpetrator of the criminal offence does not accept or refuses enforcement of the protective guardianship measure, the municipality social welfare authority shall inform the Criminal Division of the Court.
- (3) If the municipality social welfare authority assesses, in the course of enforcement of the protective guardianship measure, that its purpose has been achieved, it shall inform the Criminal Division of the Court.

**IX. EXECUTION OF COMMUNITY SERVICE**

**Article 184**  
**General Provisions on Execution of Community Service**

- (1) State bodies, organisations, institutions and other legal persons, as well as natural persons, shall be obliged to co-operate with the Ministry of Justice in the execution of community service on the request of the Ministry.
- (2) The Ministry of Justice shall conclude contracts on the execution of community service with persons referred to in Paragraph 1 of this Article. The contracts shall determine mutual rights and obligations.
- (3) On work related issues such as working hours, daily and weekly breaks, the use of safety equipment during work, general regulations shall apply.
- (4) Community service shall be non-remunerative and non-profitable. The convicted person shall not bear the expenses related to the execution of community service.
- (5) Community service shall be executed in principle in the place of permanent or temporary residence of the convicted person.

**Article 185**  
**Placement in Community Service**

- (1) The Ministry of Justice shall pass a decision on the place of work of the convicted persons within eight days after the receipt of the final and enforceable judgement.
- (2) The convicted person shall be placed in work on the basis of his/her health condition, professional capabilities, acquired skills and knowledge, and the availability of resources.
- (3) The convicted person shall be placed in work at the place available in accordance with the Rulebook on types and conditions of community service passed by the Minister of justice.
- (4) The date for the start of work and working schedule of community service shall be determined by a special decision of the Ministry of Justice.

**X. EXECUTION OF SECURITY MEASURES**

**1. Mandatory psychiatric treatment**

**Article 186**  
**Place of Execution of Mandatory Psychiatric Treatment**

- (1) The security measure of mandatory psychiatric treatment that is pronounced with a prison sentence shall be enforced in the Establishment in accordance with the Rule Book passed by the Ministry of Justice.
- (2) The security measure of mandatory psychiatric treatment that is pronounced with a community service sentence shall be enforced at the psychiatric ward of a general health care institution in compliance with the Law on the execution of criminal sanctions of the Entity where the health care institution is.
- (3) The costs of enforcement of the security measure of mandatory psychiatric treatment shall be borne by the Ministry of Justice.

**2. Mandatory medical treatment of addiction**

**Article 187**  
**Place of Execution of Mandatory Treatment of Addiction**

- (1) The security measure of mandatory medical treatment of addiction pronounced with unconditional imprisonment shall be enforced in the Establishment in compliance with the Rule Book passed by the Minister of Justice.
- (2) The security measure of mandatory medical treatment of addiction, pronounced with a suspended sentence or community service shall be enforced in compliance with the Law on execution of criminal sanctions of the Entity where the health care institution is.
- (3) In case of revocation of the suspended sentence, the enforcement of the security measure of mandatory medical treatment of addiction shall be carried out pursuant to the provisions referred to in Paragraph 1 of this Article.

### **3. Prohibition on carrying out a certain occupation, activity or duty**

#### **Article 188 Execution of Prohibition**

(1) The security measure of prohibition on carrying out a certain occupation, activity or duty shall be enforced by the competent body for internal affairs for the territory of the municipality or the administrative authority competent for issuing licenses or authorizations for practising an occupation, activity or duty.

(2) The Criminal Division of the Court shall inform on the [security]<sup>6</sup> measure the competent body for internal affairs for the territory of the municipality on whose territory the person to whom the security measure was pronounced has his/her permanent or temporary residence.

(3) The decision on the measure referred to in Paragraph 1 of this Article shall be entered into the criminal records.

(4) If the person to whom the measure referred to in Paragraph 1 of this Article was pronounced has moved to the territory of another municipality, the competent body for internal affairs for the territory of the municipality shall be informed in order to enter the ruling into their criminal records.

(5) If the exercise of an occupation, activity or duty is subject to a licence issued by the competent authority, the Court shall serve that authority with the decision on the respective measure.

(6) If the [security]<sup>7</sup> measure relates to the exercise of a certain occupation, activity or duty which the convicted person performs in a company, institution or state authority, the Court shall serve the decision on the measure to the company, institution or state authority in which that person is employed.

#### **Article 189 Manner of Execution**

(1) If the exercise of an occupation, activity or duty is not subject to a special licence or authorisation by the competent authority, the measure of prohibition of carrying out the occupation, activity or duty shall be enforced by the competent body for internal affairs for the territory of the municipality by undertaking necessary actions to ensure that the person no longer practices the prohibited occupation, activity or other profession.

(2) If the exercise of an occupation, activity or duty to which the prohibition refers is subject to a licence or authorisation by the competent authority, this security measure shall be enforced by confiscation of the licence or authorisation and prohibition of it being issued while the security measure lasts, as well as by simultaneously entering the measure into the records of that authority.

#### **4. Forfeiture**

##### **Article 190 Enforcement of Forfeiture**

- (1) The security measure of forfeiture shall be enforced by the Criminal Division of the Court or the authority that has ruled on the application of this measure.
- (2) Based on the nature of forfeited items, it shall be decided as to whether such items shall be sold under the provisions of the executive procedure, or destroyed or surrendered to a state authority or organisation.

##### **Article 191 Revenues**

The proceeds obtained through the sale of forfeited items shall be the revenues of the budget of Bosnia and Herzegovina.

#### **XI. EXECUTION OF THE MEASURE CONFISCATION OF MATERIAL GAIN ACQUIRED THROUGH PERPETRATION OF A CRIMINAL OFFENCE**

##### **Article 192 Procedure**

- (1) The provisions of the Law on enforcement procedure of Bosnia and Herzegovina shall apply in relation to the competencies and procedures for the confiscation of material gain, unless provided otherwise by this Law.
- (2) The Criminal Division of the Court shall institute, ex officio, the procedure for the reinforcement of the decision on confiscation of material gain.

##### **Article 193 Confiscation pronounced to legal persons**

The confiscation of material gain from companies or other legal persons that was pronounced in criminal proceedings shall be executed pursuant to the provisions on enforcement of protective measures of confiscation of material gain.

##### **Article 194 Take over of Property by other Legal Person**

If, when the decision on confiscation of the material gain of an enterprise or other legal person becomes final, the enterprise or other legal person terminates its activity or loses the title of a legal person, the procedure of confiscating material gain shall be executed against the legal person that has taken over the property to the value amounting to the value of the property taken over.

##### **Article 195 Credit to Budget of Bosnia and Herzegovina**

- (1) The confiscated material gain expressed in cash, securities etc. shall be credited towards the budget of the institutions of Bosnia and Herzegovina and utilized in accordance with the Law on Budget Execution, while movable and/or real property will be sold in accordance with the existing regulations. The funds obtained in this way shall be credited towards the Budget, or the property shall be given for use to

social policy or education organizations, or state bodies etc.. The court shall, if possible, even before issuing the Decision on the confiscation of the property acquired by the commission of the criminal offense, when it comes to real or movable property, carry out necessary consultations and in the enacting clause of the decision state the name of the institution that will become the beneficiary of the property.

(2) The Ministry of Treasury and Finance shall pay to the injured party the established amount if the claim for settlement from the confiscated gain is subsequently awarded to the injured party.

## **XII. EXECUTION OF EDUCATIONAL MEASURES**

### **Article 196**

#### **Purpose of Execution of Educational Measures**

The purpose of execution of educational measures is to provide to juvenile criminal offenders, to the greatest extent possible, education, correction and normal development through protection, assistance and supervision and, when necessary, to prevent them from committing criminal offences.

### **Article 197**

#### **Principles of Execution of Educational Measures**

(1) During the execution of educational measures juveniles should be treated in a manner that is appropriate to their age and personal characteristics, applying the pedagogical, humane and psychological principles.

(2) Juveniles should be motivated to actively participate in their own education, changing of their attitudes and bad habits and in the development of a sense of responsibility for their own actions.

(3) During the execution of educational measures the juveniles shall be provided with primary and secondary education and vocational training, in accordance with their age, capacities and inclinations for certain occupations.

### **Article 198**

#### **Execution before Decision Becomes Final**

In criminal proceedings against a juvenile the Criminal Division of the Court may decide that the execution of an individual educational measure shall commence before the Court's decision becomes final, if it is deemed necessary and useful for the education of the juvenile and at the same time necessary in order to single out the juvenile from the environment in which s/he lived, for the purpose of rendering assistance, protection or placement, and when such placement cannot be conducted in another way or when it is necessary to prevent him/her from committing criminal offences or from anti-social behaviour.

### **Article 199**

#### **Supervision**

The Ministry of Justice shall supervise the execution of education measures.

**Article 200**  
**Application of provisions on juveniles to adults**

The provisions of this Law referring to juveniles shall also apply to persons who have become of legal age in the course of the execution of educational measures, as well as to younger adults to whom the Court pronounced the educational measure.

**XIII. EXECUTION OF SANCTIONS FOR LEGAL PERSONS**

**Article 201**  
**Law on Enforcement Procedure**

Execution of fines and of the punishment of seizure of property of legal persons shall be carried out in the manner prescribed by the Law on enforcement procedure of Bosnia and Herzegovina.

**Article 202**  
**Dissolution of Legal Person**

The rules on liquidation and bankruptcy shall apply to the execution of the measure of dissolution of the legal person.

**XIV. TRANSITIONAL PROVISIONS**

**Article 203**  
**Accommodation in Entity Establishments**

Until such time as Bosnia and Herzegovina has establishments as foreseen in this Law persons may be detained by the Court in a unit for detention in an Establishment of either of the Entities and those convicted by the Court may serve their sentences in Entity Establishments.

**Article 204**  
**Harmonization of Legislation**

The competent authorities of the BiH Federation, Republika Srpska and the Brcko District shall harmonize their laws in this field within 90 days.

**XV. FINAL PROVISIONS**

**Article 205**  
**Publication of Rule Books**

- (1) Books of Rules and other by-laws foreseen by this Law shall be issued within 60 days after the day this law enters into force.
- (2) On adoption, all Rule Books referred to in this Law shall be published in the Official Gazette of Bosnia and Herzegovina.

**Article 206**  
**Entry into Force**

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