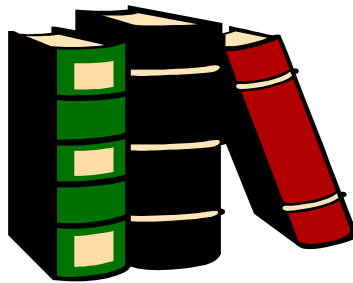




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LAW ON AMENDMENTS TO THE LAW ON EXECUTION OF CRIMINAL SANCTIONS IN THE FEDERATION OF BOSNIA AND HERZEGOVINA

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LAW
ON AMENDMENTS TO THE LAW ON EXECUTION OF
CRIMINAL SANCTIONS IN THE FEDERATION OF
BOSNIA AND HERZEGOVINA

Article 1

In the Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of BiH”, no. 44/98, 42/99 and 12/09) in Article 1, in paragraph 1, after the words: “long term imprisonment, juvenile imprisonment”, the new words shall be added to read as follows: “house arrest with electronic surveillance.”.

Article 2

After Article 9, the title of the chapter shall be amended to read as follows:

II - EXECUTION OF SENTENCES OF IMPRISONMENT, LONG-TERM
IMPRISONMENT, JUVENILE IMPRISONMENT AND HOUSE ARREST WITH
ELECTRONIC SURVEILLANCE

Article 3

In Article 10, after the parenthesized words: “(hereinafter: sentences of imprisonment)”, the following words shall be added: “as well as the house arrest with electronic surveillance.”

Article 4

After Article 20, in the subtitle under no. 2, after the words “from prison”, the following words shall be added: “and house arrest with electronic surveillance.”

Article 5

In Article 21, after the words “ordering the imprisonment”, the full stop shall be replaced with a comma and the following words shall be added: “whereas if they have been ordered to serve the house arrest with electronic surveillance, they shall serve it on the premises in which they reside in the place of their permanent or temporary residence.”

Article 6

In Article 23, after paragraph 1, new paragraphs 2 through 8 shall be added to read as follows:

“The court competent for the execution of imprisonment sentence may, in cases of conviction to imprisonment of up to one year, request from the Social Welfare Centre responsible in the place of permanent or temporary residence of the convicted person, to provide a report on personal, family and social circumstances of that person, in order to assess whether this person is suitable to be committed to serve his or her house arrest with electronic surveillance.

Before issuing the decision ordering the execution of house arrest with electronic surveillance, the court shall examine the technical possibilities for such enforcement on the premises in which the convicted person is to reside, as well as other circumstances of relevance for the execution.

Once it has found that the conditions have been met for committal of the convicted persons to serve the house arrest with electronic surveillance, the Court shall summon the convicted person in order to inform the person of the method and conditions for execution and get the person’s statement as to whether the person agrees to this method of the prison sentence execution.

Once the procedure has been completed, the court shall take the decision to commit the convicted person to serve the house arrest with electronic surveillance, indicating the date and place where the serving of the sentence is to commence.

The decision ordering the committal of the convicted person to serve his or her house arrest with electronic surveillance may determine the person’s right to leave the premises of his or her residence on specific days and hours, for the purpose of:

- 1) performing regular work duties;
- 2) obtaining necessary medical care for themselves and persons for which he or she is obligated to provide such care by law;
- 3) attending regular education classes or taking exams;
- 4) visiting certain counselling services.

At the request of the convicted person, by virtue of a separate decision, such persons may, in justified cases, be granted the leave of absence for a certain period of time from the premises where they reside.

The request for an absence not exceeding 24 hours shall be decided by the director of the institution on the territory of which the convicted person is serving a the house arrest with electronic surveillance, whereas the requests for an absence exceeding 24 hours shall be decided by the competent court at the request of the convicted person.”

Article 7

Article 24 shall be amended to read as follows:

“The court shall summon a convicted person, who is at liberty, to inform him or her about the date when he or she is to report to the particular institution to start serving his or her term.

The date of reporting to that institution, or the date when the house arrest with electronic surveillance is to commence, shall be assigned so that the convicted person shall have the period from minimum eight days to maximum 15 days before he or she reports to the institution to start serving his or her term, or before the execution of his or her house arrest with electronic surveillance commences.

While informing the convicting person the court shall give him or her the letter of confinement (uputni akt) and a ticket if he or she is to take public transport to the institution.

When committing a convicted person to serve the imprisonment sentence or the house arrest with electronic surveillance, at the same time or three days after the convicted person was informed at the latest the court shall inform the institution about the date when the convicted person is to report to it in order to start serving his or her term, whereas in the case of a person serving the house arrest with electronic surveillance, the court shall provide the institution with the letter of confinement for serving the house arrest with electronic surveillance.

The court shall send to the institution a copy of the verdict and the criminal record enclosed to the letter of confinement or to the decision ordering the committal for serving the house arrest with electronic surveillance, as appropriate.

Within 24 hours the institution shall inform the court that the convicted person started serving his or her term, or that the person started serving the house arrest with electronic surveillance.

If a convicted person, who is at liberty, fails to report on the designated date to the institution to start serving his term, or fails appear on the premises of his or her residence to start serving the house arrest with electronic surveillance, the institution shall inform the court thereof no later than within 24 hours following the date designated for reporting to the institution or the date designated as the start of the house arrest with electronic surveillance.

If a duly summoned and instructed convicted person has failed to report to the institution by the designated deadline, or has failed to appear on the premises of his or her residence on the date designated as the start of serving the house arrest with electronic surveillance, the court shall issue an order to the court police to have the convicted person apprehended.

If a convicted person is hiding or has escaped, the court shall issue a warrant for his arrest and shall forward it to the competent law enforcement agency.

When the convicted person has been apprehended, he or she shall be brought under police escort to the institution for serving his or her term.

The costs incurred by bringing a convicted person in situations under paragraphs 8 and 9 of this article shall be paid by the convicted person.”

Article 8

In Article 25, after the words “institution by the police”, the full stop shall be replaced with a comma and the following words shall be added: “whereas the commencement of execution of the house arrest with electronic surveillance shall be counted from the date designated as the start of execution.”

Article 9

Article 26 shall be amended to read as follows:

“If the convicted person, who is being sent to serve his or her prison term or the house arrest with electronic surveillance, has minor dependants or other dependants of whom he alone takes care, the court shall inform thereof the competent social welfare authorities.

The Federation Minister shall enact the Rules on the Criteria for Sending Convicted Persons to Serve Prison Terms.”

Article 10

In Article 27, in paragraph 2, the words: “as long as the disease lasts” shall be replaced with the words: “for not more than one year”.

Article 11

In Article 34, after paragraph 3, a new paragraph 4 shall be added to read as follows:

“Persons serving the house arrest with electronic surveillance shall also be entered in the prison register and a prison file shall be opened for them.”

The current paragraph 4 shall become paragraph 5.

Article 12

In Article 37, after the words “or temporary residence”, the comma shall be replaced with a full stop, while the remaining wording shall be deleted.

After paragraph 1, a new paragraph 2 shall be added to read as follows:

“The provisions under paragraph 1 of this Article shall also apply to the persons serving the house arrest with electronic surveillance.”

Article 13

After Article 91, new Article 91a. and Article 91b. shall be added to read as follows:

“Article 91a.

During the course of using the privileges outside the establishment, the convicted persons may also be under electronic surveillance.

Article 91b.

The Federation Minister shall prescribe the method of conducting the electronic surveillance within the period of 30 days following the date of entry into force of this Law.”

Article 14

In Article 93, in paragraph 4, after sub-paragraph 17), a new sub-paragraph 18) shall be added to read as follows:

“18) violating the provisions about electronic surveillance;”

The current sub-paragraph 18) shall now become sub-paragraph 19).

Article 15

Article 108 shall be amended to read as follows:

“Conditional release stands for the release of prisoners from serving the prison sentence before its end under the conditions stipulated in the Criminal Code of the Federation, provided that during the remaining time of the unserved prison sentence an order may be issued to place the person under electronic surveillance, and he or she may be committed to continuation of the measures prescribed by the corrective training treatment program.

The release of prisoners, for the purpose of paragraph 1 this Article, shall be made to encourage private efforts to turn convicts into life at large if it determines that a prisoner will no longer commit the crimes, that the punishment has achieved the purpose of punishment and that the person released does not represent an unacceptable risk to the community.”

Article 16

Article 109 shall be amended to read as follows:

“The request for release on parole may be lodged by an inmate or his close family members as provided under Article 108.

The proposals for release on parole may also be made by the governor of the institution.

The requests or proposals for release on parole shall be forwarded to the Commission for Release on Parole (hereinafter referred to as: the Commission) thorough the institution.”

Article 17

Article 110 shall be amended to read as follows:

“The Commission for Release on Parole appointed by the Federation Minister shall decide on conditional release of the prisoners whose prison sentence was imposed by the courts in the Federation.

The Commission for Release on Parole shall have the Chair, six members and their deputies, of whom the chair and one member come from the Federation Ministry, one member from among the judges and prosecutors, and three members from the relevant areas of professions such as criminal law, social welfare, psychology, andragogy, etc.

The Commission members shall be appointed for the period of four years with the possibility of reappointment.

The Commission shall enact the Rules of Procedure by which it shall further regulate the method of operation, the framework criteria for granting release on parole, for recalling the decision on release on parole, and the method of conducting surveillance over the convicted persons.”

Article 18

Article 111 shall be amended to read as follows:

“Together with the request or proposal, the institution shall submit to the Commission the information on the success achieved in the corrective treatment programme of the prisoner, information about earlier convictions, a description of the criminal act, information about the prisoner’s behaviour, as well as all other reports made by other professionals engaged in working with the prisoner and other information relevant to the decision. The prisoner’s request shall also be accompanied with an assessment by the institution on the admissibility of the request or proposal for conditional release.

In reaching its decision on conditional release the Commission shall take into account and assess the information and facts regarding to:

- 1) earlier convictions;
- 2) behaviour observed during the serving of the sentence;
- 3) personal participation in the corrective treatment program;
- 4) attitude towards the crime committed and towards the victim of the crime;
- 5) risk of recidivism or further offending;
- 6) remainder of the unserved part of the sentence;
- 7) opinion of the establishment about admissibility of the request or proposal for conditional release and
- 8) measures applied as part of post-penal protection programme.”

Article 19

Article 112 shall be amended to read as follows:

“The governor of the institution shall have an *ex officio* obligation to send to the Commission the proposals for release of all prisoners that may be considered for conditional release and so within the period of 30 days before the end of two thirds of the imposed sentence and that meet the required conditions in the domain of conditional release.

The proposals referred to in paragraph (1) of this Article shall be submitted by the governor to the Commission as provided by Article 111 of this Law.”

Article 20

Article 113 shall be amended to read as follows:

“Conditional release shall be granted, denied or rejected by way of a decision.

The decision must be reasoned.

The decision made by the Commission on the conditional release shall be forwarded to the institution which is then obligated to deliver one copy each to the applicant, the convicted person, the competent court of law sending the conditionally released prisoner to serve the sentence, the police administration and the social welfare authority responsible by the criteria of permanent or temporary residence.

If the applicant is a family member of the convicted person, the outcome shall be communicated to the family member by the Federation Ministry.”

Article 21

Article 114 shall be amended to read as follows:

“If the prisoner, in the period after the ruling on conditional release and before the day of conditional release, commits a serious disciplinary offence, the Commission may revoke the decision at the proposal of the institution. During the period of conditional release the convicted person may be subject to electronic surveillance, which shall be decided by the Commission. Before taking the decision on conditional release, the Commission may condition the conditional release by written agreement of the prisoner to become subject to electronic surveillance.

The decision repealing the decision on conditional release shall be submitted to the institution which is then obligated to deliver one copy each to the prisoner, the competent court of law sending the conditionally released prisoner to the institution to serve the sentence, the competent police administration and the competent social welfare authority.

Upon receiving the decision referred to in paragraph 3 of this Article, the convicted person shall report to the institution immediately in order to serve the remainder of the unserved prison term.

The period between the start date of conditional release and the regular end date of the prison term shall be counted as the remainder of the unserved prison term.

Should the convicted person fail to report to the institution after the recall of the conditional release, the institution shall undertake all actions required to issue an arrest warrant against him or her.”

Article 22

Article 115 shall be amended to read as follows::

“No appeal may be initiated against the rulings of the Commission under Articles 113 and 114 of this Law nor may administrative dispute proceedings be instituted against them.

A prisoner shall be entitled to re-apply for conditional release 3 (three) months after the last decision of the Commission.”

Article 23

Article 116 shall be amended to read as follows:

“A person who is being conditionally released shall, at the time of release from the institution, indicate the address where he or she is to reside during the conditional release. Upon his arrival at the place of residence, the person conditionally released, shall report his or her arrival to the competent police administration within 24 hours following his or her release.

Should a conditionally released person change his or her place of residence, he or she shall inform thereof the police administration referred to in paragraph 1 of this Article.

The competent police administration shall inform the governor of the releasing institution about the reported arrival of the conditionally released person referred to in paragraph 1 of this Article.”

Article 24

Article 117 shall be amended to read as follows:

“The Commission shall submit an annual report about its operation to the Federation Minister.”

Article 25

Article 118 shall be amended to read as follows:

“The Governor of the institution can conditionally release a prisoner with good behaviour, who does his best at work and actively participates in the resocialisation process, and has served at least 4/5 (four fifths) of his or her sentence, at the time of up to 3 (three) months before completion of the sentence.

The conditional release referred to in paragraph 1 shall not apply to prisoners to whom a fine has been replaced by a prison sentence.”

Article 26

In Article 232, paragraphs 1, 4 and 7 shall be amended to read as follows:

"1. The Penal-Correctional Establishment in Zenica shall continue to operate as a maximum security Penal-Correctional Establishment with a Juvenile Detention Unit for juvenile prisoners in Zenica and a Unit in Usora Municipality.

4. The Penal-Correctional Establishment of semi-open type in Butmir (part situated in the territory of the Federation) and the District Prison in Sarajevo shall continue to operate as a medium security Penal-Correctional Establishment in Sarajevo with prison wards in Ustikolina and Pale-Prača Municipalities.

7. The District Prison in Tuzla and the District Prison in Orašje shall continue to operate as a medium security Penal-Correctional Establishment in Tuzla and a medium security Penal-Correctional Establishment in Orašje.”

Article 27

Article 233 shall be amended to read as follows:

“A medium security Penal-Correctional Establishment shall be established in Busovača.”

Article 28.

After Article 234, a new Article 234a. shall be added to read as follows:

“Article 234a.

“An Educational-Correctional Establishment shall be established Orašje.”

Article 29.

This Law shall enter into force on the eight day following the publication of the Law in the “Official Gazette of the Federation of Bosnia and Herzegovina.”

Chair
House of Peoples
BiH Federation Parliament
Karolina Pavlović, *manu propria*

Chair
House of Representatives
Federation Parliament
Dr. Denis Zvizdić, *manu propria*