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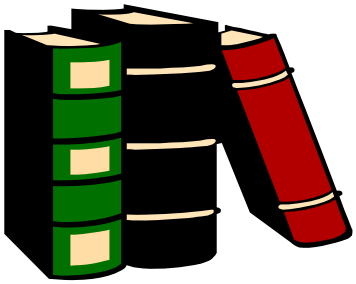

CRIMINAL PROCEDURE CODE OF REPUBLIKA SRPSKA

"Official Gazette of Republika Srpska", 50/03

NOTE: The Law on Changes and Amendments to the Criminal Procedure Code of Republika Srpska, "Official Gazette of Republika Srpska", 111/04, is not included in this translation.
NOTE: The High Representative Decision Enacting the Law on Amendments to the Criminal Procedure Code of Republika Srpska, No. 323/04, published in the "Official Gazette of Republika Srpska", 115/04, is not included in this translation.
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NOTE: The Law on Changes and Amendments to the Criminal Procedure Code of Republika Srpska, published in the "Official Gazette of Republika Srpska", 68/07, is not included in this translation.
NOTE: The Law on Changes and Amendments to the Criminal Procedure Code of Republika Srpska, published in the "Official Gazette of Republika Srpska", 119/08, is not included in this translation.

CRIMINAL PROCEDURE CODE OF REPUBLIKA SRPSKA

PART ONE
GENERAL PROVISIONS

CHAPTER I
BASIC PRINCIPLES

Article 1
Scope and Application of This Code

This Code sets forth the rules of criminal procedure that are mandatory for the proceedings of the courts, the prosecutors and other participants in the criminal proceedings provided by this Code, when acting in criminal matters.

Article 2
Principle of Legality

(1) The rules set forth in this Code shall provide for an innocent person to be acquitted and for a perpetrator of an offense to be subject to a criminal sanction in legally prescribed proceedings under the conditions provided by the Criminal Code of Republika Srpska (hereinafter: the Criminal Code) and other laws that define criminal offenses within the bounds provided for in the Criminal Code and in proceedings defined by law.

(2) Prior to the rendering of a finally binding verdict the freedom and other rights of the suspect or accused shall be limited only under the conditions set forth in this Code.

(3) A penalty for the commission of a crime shall be pronounced only by a competent court or by the court, to which the Court of Bosnia and Herzegovina has transferred the case, in the proceedings instituted and conducted in accordance with this Code.

Article 3
Presumption of Innocence and *In Dubio Pro Reo*

(1) A person shall be considered innocent of a crime until he is proven guilty by a finally binding verdict.

(2) A doubt with respect to the existence of facts constituting the character of a criminal offense or of facts on which the application of certain provisions of criminal legislation depends shall be resolved by the court in a decision and in a manner that is the most favorable for the accused.

Article 4
Prohibition of Double Jeopardy

No person shall be prosecuted again for the same offense he has been already tried for and received the finally binding verdict.

Article 5

Rights of a Person Deprived of Liberty

(1) A person deprived of liberty shall, in his mother tongue or any other language that he understands, be immediately informed about the reasons for his apprehension and advised that he is not obliged to make a statement, on his right to a defense attorney of his own choice as well as on the fact that his family, or other person designated by him shall be informed about his deprivation of liberty.

(2) A defense attorney shall be appointed to represent a person deprived of liberty, at the person's request, if he cannot pay the expenses of defense due to his financial condition.

Article 6

Rights of a Suspect or the Accused

(1) The suspect, upon first being questioned, shall be informed about the offense that he is charged with and the grounds for suspicion against him.

(2) The suspect or accused shall be provided with an opportunity to make a statement regarding all the facts and evidence incriminating him and to present all facts and evidence in his favor.

(3) The suspect or accused shall not be bound to present his defense or to answer questions he is asked.

Article 7

Right to Defense

(1) The suspect or accused has the right to present his own defense or to defend himself with the professional assistance of a defense attorney of his own choice.

(2) If the suspect or accused does not have a defense attorney, a defense attorney shall be appointed for him in cases as stipulated by this Code.

(1) The suspect or accused shall be given sufficient time to prepare a defense.

Article 8

Language and Alphabet

(1) The official languages of Republika Srpska - the language of Serbian people, the language of Bosniac people and the language of Croatian people - shall be equally used in criminal proceedings. Latin and Cyrillic shall be the official alphabets.

(2) Parties, witnesses and other participants in the proceedings have the right to use their own language in the course of the proceedings. If such a participant does not understand one of the official languages of Republika Srpska, provision shall be made for oral interpretation of the testimony of that person and other persons and translation of official documents and identifications and other written pieces of evidence.

(3) Any above-mentioned individual shall be informed of the right under Paragraph 2 of this Article prior to first questioning and may waive such right if he knows the language in which the proceedings are being conducted. A note shall be made in the record that the participant has been so informed, and his response thereto shall also be noted.

(4) Interpretation shall be performed by a court interpreter.

Article 9

Sending and Delivery of Court Papers

(1) The court and other bodies participating in the proceedings shall issue summonses, decisions and other papers in the official languages under Paragraph 1 of Article 8 of this Code.
(2) Indictments, appeals and other submissions shall be submitted to the court and other bodies participating in the proceedings in the official languages under Paragraph 1 of Article 8.
(3) Any person who is deprived of freedom or in custody, serving sentence or committed for mandatory psychiatric or addiction treatment, shall also be delivered the translation of the papers under Paragraphs 1 and 2 of this Article in the language used by the person in question in the proceedings.

Article 10

Legally Invalid Evidence

(1) No confession or any other statement shall be extorted from the suspect, the accused or any other participant in the proceedings.
(2) The Court may not base its decision on evidence obtained through violation of human rights and freedoms prescribed by the Constitution and international treaties ratified by Bosnia and Herzegovina, nor on evidence obtained through violation of this Code.
(3) The court shall not base its decision on evidence derived from the evidence referred to in Paragraph 2 of this Article.

Article 11

Right to Compensation and Rehabilitation of Reputation

A person who has been convicted of a criminal offense or deprived of freedom due to a miscarriage of justice is entitled to rehabilitation of reputation, compensation for damage to be paid from the budget, as well as to other rights as stipulated by law.

Article 12

Instruction on Rights

The court, prosecutor and other bodies participating in the proceedings shall instruct a suspect or the accused or any other participants in the criminal proceedings, who could, out of ignorance, fail to carry out a certain action in the proceeding or fail to exercise his rights, on his rights under this Code and the consequences of such failure to act.

Article 13

Right to Trial without Delay

(1) The suspect or accused shall be entitled to be brought before an independent and impartial court in the shortest reasonable time period and to be tried without delay.
(2) The court shall also conduct the proceedings without delay and prevent any abuse of the rights of any participant in the criminal proceedings.
(3) The duration of custody shall be for the shortest necessary time.

Article 14

The Principle of Truth

The court, the prosecutor and other bodies participating in the proceedings are bound to objectively study and establish with equal attention facts that are exculpatory as well as inculpatory for the suspect or the accused.

Article 15

Free Evaluation of Evidence

The right of the court, prosecutor and other bodies participating in the criminal proceedings to evaluate the existence or non-existence of facts shall not be related or limited to special formal evidentiary rules.

Article 16

Accusatory Principle

Criminal proceedings shall only be initiated and conducted at the request of the prosecutor.

Article 17

Principle of Legality of Prosecution

The prosecutor shall initiate a prosecution if there is evidence that a criminal offense has been committed unless otherwise prescribed by this Code.

Article 18

Consequences of Initiation of the Proceedings

When it is prescribed that the initiation of criminal proceedings entails the restriction of certain rights, such restrictions, unless this Code specifies otherwise, shall commence when the indictment is confirmed. And for the criminal offenses punishable by a fine or imprisonment of up to five (5) years, those consequences shall commence as of the day the the verdict of guilty is rendered, regardless of whether the judgment has become finally binding.

Article 19

Preliminary Issues

(1) If application of the Criminal Code depends on a prior ruling on a point of law that falls under the jurisdiction of a court in other proceedings, or within the jurisdiction of another body, the court trying the criminal case may itself rule on that point in accordance with applicable provisions concerning the presentation of evidence in criminal proceedings. The court’s ruling on that point of law takes effect only with respect to the particular criminal case that the court is trying.
(2) If a court in other proceedings or another body has already ruled on the preliminary issue, such ruling shall not be binding on the court with respect to its assessment of whether a particular criminal offense has been committed.

CHAPTER II

DEFINITION OF TERMS

Article 20

Basic Terms

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

a) The term “suspect” refers to a person with respect to whom there are grounds for suspicion that the person has committed a particular criminal offence;
b) The term “accused” refers to a person against whom one or more counts in an indictment have been confirmed;
c) The term "convicted person" refers to a person who has been found guilty of a particular criminal offense in a finally binding judgment of conviction;
d) “The preliminary proceedings judge” is a judge who, during the investigative procedure acts in cases as prescribed by this Code;
e) The term “preliminary hearing judge” refers to a judge who after the confirmation of the indictment acts in cases as prescribed by this Code and who has the powers of “the preliminary proceedings judge”;
f) The term “parties” refers to the prosecutor, the suspect/accused and the convicted person;
g) The term “authorized official” refers to a person who has appropriate authority within the State Border Service, the Police of Republika Srpska, Judicial police and customs, financial police, internal revenue service and military police;
h) the term "injured party" refers to a person whose personal or property rights have been harmed or violated by a criminal offense;
i) The term “Legal persons” refers to corporations, companies, associations, firms and partnerships and other business enterprises;
j) The term “investigation” refers to all activities undertaken by the prosecutor or by authorized officials in accordance with this Code, including the collection and preservation of information and evidence;
k) The term “cross-examination” refers to the questioning of a witness or expert witness by the party or the defense attorney who has not called the witness or expert witness to testify;
l) The term “direct examination” refers to the questioning of a witness or expert witness by the party or the defense attorney who called the witness or expert witness to testify;
m) The term “grounded suspicion” refers to a higher degree of suspicion than bare suspicion, based on collected evidence leading to the conclusion that a criminal offense has been committed;
n) the terms "writings" and "recordings" refer to the contents of letters, words, or numbers, or their equivalent, generated by handwriting, typewriting, printing, photocopying, photographing, magnetic impulse recording, mechanical or electronic recording, or other form of data compilation;
o) The term "photographs" refers to still and digital photographs, X-ray films, videotapes, and motion pictures;
p) The term "original" refers to an actual writing, recording or similar counterpart intended to have the same effect by a person writing, recording or issuing it. An "original" of a photograph includes the negative or any copy therefrom. If data is

stored on a computer or a similar automatic data processing device, any printout or other output readable by sight is considered an "original";

q) The term "copy" refers to a copy generated by copying the original or matrix, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques that accurately reproduce the original;

r) The term “telecommunication address” means any telephone number, either landline or cellular, or e-mail or internet address held or used by a person.

CHAPTER III

LEGAL ASSISTANCE AND OFFICIAL COOPERATION

Article 21

Legal Assistance and Official Cooperation

(1) All courts in Republika Srpska shall provide legal assistance to the court conducting criminal proceedings.
(2) All authorities of Republika Srpska shall maintain official cooperation with the courts, the prosecutor and other bodies conducting criminal proceedings.

Article 22

Rendering Legal Assistance and Official Cooperation

1) The court shall file a request for legal assistance or official cooperation with the competent court or authority.
2) Such legal assistance or official cooperation shall be provided without compensation.
3) Paragraphs 1 and 2 of this Article shall be applied to requests issued by the prosecutor to other authorities in Republika Srpska.

CHAPTER IV

JURISDICTION OF THE COURT

1. Subject Matter Jurisdiction and Composition of the Court

Article 23

General Provision

The courts shall adjudicate criminal matters within the bounds of subject matter jurisdiction provided for by law.

Article 24

Composition of the Court

(1) As courts of first instance, the courts shall sit in panels of three judges and a single trial judge shall try all criminal cases punishable by a fine or a prison term of up to five years.
(2) As courts of second instance, the courts shall sit in panels of three judges.
(3) As courts of third instance, the courts shall sit in panels of five judges.
(4) The preliminary proceedings judge, the preliminary hearing judge, the president of the court and the presiding judge shall decide cases as provided by this Code.
(5) The courts shall sit in panels of three judges to hear appeals against decisions prescribed by this Code and make other decisions outside the main trial.

(6) The court shall sit in panels of three judges to hear petitions for reopening of the proceedings.

2. **Territorial Jurisdiction**

Article 25.

Forum Delicti Commissi

1) The court covering a defined territory shall have territorial jurisdiction over any criminal offense committed within the court's territory.

2) If a criminal offense was committed or attempted in territories covered by different courts, or on the boundaries of the territories or in an uncertain territory, the territorial jurisdiction shall be exercised by the court which was the first to confirm the indictment, but if the indictment has not been confirmed yet, it shall be exercised by the court which was the first to receive the indictment for confirmation.

Article 26

Jurisdiction Over Criminal Offenses Committed Aboard A National Vessel or Craft

If a criminal offense was committed aboard a national vessel or craft while in a national port or airport, the court in whose territory the port or airport is located shall have territorial jurisdiction. In all other cases of a criminal offense having been committed aboard a national vessel or craft, the court in whose territory the vessel or craft is registered or the court in whose territory the port/airport, in which the vessel or craft first stopped is located, shall have jurisdiction over the case.

Article 27

Specific Jurisdiction

1. If the crime scene is unknown or outside the territory of Republika Srpska, the court in the territory of the defendant's domicile or temporary residence shall have jurisdiction over the case.
2. If the court in the territory of the defendant's domicile or temporary residence has started conducting the criminal proceeding, it shall have jurisdiction over the case even when the crime scene has been discovered afterwards.
3. If both the crime scene and the defendant's domicile or temporary residence are unknown or both are outside the territory of Republika Srpska the court in whose territory the defendant was caught or surrendered shall have jurisdiction over such case.

Article 28.

Jurisdiction Over Criminal Offences

If a person committed criminal offences both within and outside the territory of Republika Srpska and the criminal offences are linked and supported with same evidence, the court that has jurisdiction over the criminal offence committed in Republika Srpska shall have jurisdiction over such case.

Article 29.

Forum Ordinatum

If it is impossible to decide which court has territorial jurisdiction pursuant to provisions above, the Supreme Court shall designate one of the courts having subject-matter jurisdiction to have jurisdiction over the case.

3. Severance and Joinder of Proceedings

Article 30

Joinder of Proceedings

(1) If the same person is charged with several different criminal offenses falling under subject matter jurisdiction of both lower and higher court, the competent court to try him shall be the higher court; if the competent courts are of the same level, the court that was the first to initiate the proceeding at the request of prosecutor shall have jurisdiction over the case and if the criminal proceeding has not been instituted yet, the court first to receive the request for prosecution shall have jurisdiction.
(2) The competent court shall be decided in pursuance of Paragraph 1 of this Article also if at the same time the injured party committed a criminal offense against the accused.
(3) The court competent to try the accomplices, as a general rule, shall be the court competent to try one of the accomplices, which was the first to institute the proceeding.
(4) As a general rule, the court having jurisdiction over the offender shall have jurisdiction also over the accomplices, accessories before the fact, accessories after the fact, persons having known of the preparation, commission and perpetrator of the criminal offence but failing to report them.
(5) In all cases under Paragraphs 1 through 4 the court shall conduct, as a general rule, joint proceedings and render a single verdict.
(6) The court may decide to conduct joint proceedings and render a single verdict if several persons are alleged to have joined in the commission of several criminal offenses under condition that there is a mutual relation between those criminal offenses. If the criminal offenses fall under subject matter jurisdiction of both lower and higher court, the competent court to conduct the joinder shall be the higher court.
(7) The court may decide to conduct joint proceedings and render a single verdict if separate proceedings are currently conducted against the same person for several criminal offenses or against several persons for the same criminal offenses.
(8) The court that has jurisdiction over a joinder shall, decide the issue of joinder of the proceedings. No appeal is allowed against the decision ordering joinder of the proceedings or overruling the motion for joinder of the proceedings.

Article 31

Severance of Proceedings

(1) For important reasons or for reasons of purposefulness, before the main trial is completed, the court which is competent in accordance with Article 30 of the Code may order severance of the proceedings for certain criminal offenses or against certain accused persons and complete them separately.
(2) The decision on severance of the proceedings shall be made by the judge or the panel upon a hearing of the parties and the defense attorney.
(3) No appeal is allowed against the decision ordering severance of the proceedings or rejecting the motion for severance of the proceedings.

4. Transfer of Territorial Jurisdiction

Article 32

Designation of Another Court Having Subject-Matter Jurisdiction

(1) If the competent court is prevented from proceeding for legal or subject-matter related reasons it shall inform about it the higher court that shall designate the case to a court having subject-matter jurisdiction over the case in its territory, after having heard the parties and defense attorney.

(2) An appeal is not allowed against the decision under Paragraph 1 of this Article.

Article 33

Change of Venue

1. The Supreme Court may remove a proceeding from one court to another with the same subject-matter jurisdiction because of important reasons.

2. The decision under Paragraph 1 of this Article, against which no appeal is allowed, may be issued at the motion by preliminary proceedings judge, preliminary hearing judge, judge, presiding judge, one of the parties or defense attorney.

5. Consequences of Lack of Jurisdiction *(Want of Jurisdiction)*

Article 34

Duty to Observe Jurisdiction and Consequences of Lack of Jurisdiction

(1) The court shall be cautious of its territorial or subject-matter jurisdiction and as soon as it becomes aware that it is not competent, it shall issue a decision that it lacks jurisdiction and once such decision has become finally binding, it shall forward the case to the competent court.

(2) If during the proceedings the court finds that a lower court has jurisdiction over the case, it shall not transfer the case to the lower court but shall conduct the proceedings and render a decision.

(3) After the indictment has been confirmed, the court may not issue a decision on the lack of jurisdiction neither may the parties challenge its jurisdiction.

(4) Even if the court has not jurisdiction over a case, it shall undertake those actions in the proceeding, whose delay would be detrimental.

Article 35

Conflict of Jurisdiction Proceedings

1) If the court to which a case has been transffered deems that the court having transferred the case or another court is competent, it shall institute the conflict of jurisdiction proceedings.

2) If the appellate court has decided an appeal against the decision on the lack of jurisdiction by the court of first instance, the decision disposing the appeal shall dispose also the issue of jurisdiction concerning the other court which the case has been removed to if the appellate court has jurisdiction to decide the conflict of jurisdiction.

Article 36

Resolution of Conflict of Jurisdiction

1) Conflict of jurisdiction shall be resolved by the immediate common higher court.

2) Before the higher court issues the decision it shall seek opinion of the parties and defense attorney. No appeal is allowed against the decision.

3) Until the issue of conflict of jurisdiction has been resolved, each court involved shall undertake those actions in the proceedings, whose delay would be detrimental.

CHAPTER V

DISQUALIFICATION

Article 37

Reasons for Disqualification

A judge shall not perform his duties as judge if:

a) he is personally injured by the offense;

b) if the suspect or accused, his defense attorney, the prosecutor, the injured party, his legal representative or attorney-in-fact is his spouse or cohabitee or lineal relative to any degree whatsoever, relative in a collateral line to the fourth degree, or in-law to the second degree;

c) if he is a guardian, ward, adoptive parent, adopted child, foster parent or foster child with respect to the suspect or accused, his defense attorney, the prosecutor or the injured party;

d) if he has participated in the same case as the preliminary proceedings judge or preliminary hearing judge or if he participated in the proceedings as prosecutor, defense attorney, his legal representative or attorney-in-fact of the injured party or if he was heard as a witness or expert witness;

e) if, in the same case, he participated in rendering a decision contested by the legal remedy;

f) if circumstances exist that raise a reasonable suspicion as to his impartiality.

Article 38

Disqualification upon the Motion of the Parties

(1) The parties and the defense attorney may seek disqualification of the President of the court and of the judge.

(2) The petition referred to in Paragraph 1 of this Article may be filed before the beginning of the main trial and if the parties and the defense attorney learn of reasons for disqualification referred in Article 37 Item a) to f) of this Code later, they may submit a petition as soon as they learn of these reasons.

(3) The parties and defense attorney may file a petition for disqualification of a judge of the appellate court in the appeal or in an answer to the appeal.

(4) The parties or the defense attorney may seek to disqualify only a particular judge or the presiding judge of the panel conducting the case.

(5) In the petition, a party or defense attorney shall set forth the facts and circumstances justifying disqualification. The reasons stated in a previous petition for disqualification that was refused shall not be included in the petition for disqualification.

Article 39

Disqualification Procedure

(1) As soon as a judge learns of any of the reasons for his disqualification referred to in Article 37 Item a) to e) of this Code, he shall interrupt any work on the case and inform the President of the court who shall assign his replacement. If the judge

believes that circumstances referred to in Article 37 Item f) exist, he shall inform the President of the court accordingly.

(2) The court in plenary session shall decide the issue of disqualification and replacement in the case referred to in Paragraph 1 of this Article as well as in the case of disqualification of the President of the court.

Article 40

Deciding the Motion for Disqualification

(1) The court in plenary session shall decide the petition for disqualification referred to in Article 39 of this Code.

(2) Before rendering a decision on disqualification, a statement shall be taken from the judge or President of the court and if required, other investigations shall be conducted.

(3) No appeal shall be allowed against a decision upholding or rejecting the motion for disqualification.

(4) If the petition for disqualification referred to in Article 37 Item f) of this Code was submitted after the beginning of the main trial or if actions were taken contrary to the provision of Article 39 Paragraph 4 or 5 of this Code, the petition shall be rejected in whole or in part. The decision rejecting the petition shall be issued by the Panel under Article 24 Paragraph 5 of this Code. The judge whose disqualification is required may not participate in the issuance of that decision. No appeal is allowed against the decision rejecting the petition.

Article 41

Validity of Actions Taken after Filing the Motion for Disqualification

When a judge learns that a motion has been filed for his disqualification, he shall immediately cease working on the case and, if the issue is the disqualification referred to in Article 37 Item f) of this Code, until issuance of a decision on the petition he may take only those actions whose delay would be detrimental.

Article 42

Disqualification of the Prosecutor and Other Participants in the Proceedings

(1) The provisions on disqualification of a judge shall accordingly be applied to the prosecutor and persons authorized to represent the prosecutor in the proceedings, record takers, court interpreters and specialists as well as to expert witnesses, unless otherwise regulated.

(2) The prosecutor shall decide the disqualification of persons who pursuant to the law are authorized to represent him in criminal proceedings. The Collegium of the prosecutor’s office shall decide the disqualification of the prosecutor.

(3) The panel, the president of the court or judge shall decide the disqualification of record takers, court interpreters and specialists as well as expert witnesses.

(4) When authorized officials take investigative actions pursuant to this Code the prosecutor shall decide their disqualification. An authorized official taking the actions shall decide the disqualification of the record taker if the latter participates in such actions.

CHAPTER VI

PROSECUTOR

Article 43

Rights and Duties

(1) The basic right and the basic duty of the prosecutor shall be the detection and prosecution of perpetrators of criminal offenses.
(2) The prosecutor shall have the following rights and duties:
   a) as soon as he becomes aware that a criminal offense has been committed, to take necessary steps to discover it and investigate it, to identify the suspect(s), guide and supervise the investigation, as well as direct the activities of authorized officials pertaining to the identification of suspect(s) and the gathering of statements and evidence;
   b) to perform an investigation in accordance with this Code;
   c) to grant immunity in accordance with the law;
   d) to request information from governmental bodies, companies and physical and legal persons in Republika Srpska;
   e) to issue summonses and orders and to propose the issuance of summonses and orders as provided under this Code;
   f) to order authorized officials to execute orders issued by the court as provided by this Code;
   g) to propose the issuance of a warrant for pronouncement of the sentence pursuant to Article 340 of this Code;
   h) to issue and defend an indictment before the court;
   i) to seek legal remedies;
   j) to perform other tasks as provided by law.
(3) In accordance with Paragraphs 1 and 2 of this Article, all bodies participating in the investigative procedure are obliged to inform the prosecutor on each undertaken action and to act in accordance with every prosecutor’s request.

Article 44

Taking Actions

The prosecutor shall take all actions in the proceedings for which he is himself authorized by law or through the persons who are authorized pursuant to the law to act at his request in criminal proceedings.

Article 45

Conflict of Jurisdiction

Conflict of jurisdiction of prosecutors shall be decided directly by Chief Prosecutor.

Article 46

Abandoning Prosecution

The prosecutor may abandon prosecution before the end of a main trial and before the appellate court he may abondon prosecution when provided by this Code.

CHAPTER VII

DEFENSE ATTORNEY

Article 47

Right to a Defense Attorney

(1) The suspect or accused shall be entitled to have a defense attorney throughout the course of the criminal proceedings.
(2) Only a lawyer who fulfils the requirements set forth in the law may be engaged as a defense attorney.
(3) If the suspect or accused does not himself hire a defense attorney, a defense attorney may be engaged for him by his legal representatives, spouse or cohabitee, a lineal relative to any degree whatsoever, adoptive parents, adopted children, brothers, sisters or foster parents, if the suspect or the accused does not explicitly oppose it.
(4) The defense attorney must submit his power of attorney on the occasion of taking his first action in the proceedings.

Article 48

Number of Defense Attorneys

(1) Several suspects or accused may have one common defense attorney unless the attorney has been appointed by the court in accordance with Article 53 and Article 54 of this Code.
(2) A suspect or accused may have more than one defense attorney, but only one of them shall have the status of primary defense attorney, and the suspect or accused shall decide which one it will be. The defense is deemed to be present when one of the defense attorneys is participating in the proceedings.

Article 49

Persons who May Not Act as Defense Attorneys

(1) An injured party, spouse or cohabitee of the injured party or of the prosecutor, or their lineal relative to whatever degree, a relative in a collateral line to the fourth degree, or an in-law to the second degree may not act as a defense attorney.
(2) A person who has been duly summoned to the main trial as a witness may not act as a defense attorney.
(3) A person who has acted as the judge or the prosecutor in a case may not act as a defense attorney in the case.

Article 50

Disqualification of a Defense Attorney

(1) Grounds for disqualification shall also exist for a defense attorney misusing a contact with the suspect or accused in custody to the effect that the suspect or accused commits a criminal offense or threatens the security of a prison where custody takes place.
(2) In the event referred to in Paragraph 1 of this Article, the suspect or accused shall be requested to hire another defense attorney within a given deadline.
(3) If the suspect or the accused in cases of mandatory defense fails to retain a defense attorney or the persons referred to in Article 47 Paragraph 3 of this Code fails to retain the defense attorney, the procedure provided under Paragraph 4 of Article 53 of this Code shall be followed.

(4) In cases referred to in Paragraphs 2 and 3 of this Article, the new defense attorney shall be given enough time to prepare the defense for the suspect or the accused.
(5) During the disqualification, the defense attorney shall not be allowed to defend the suspect or the accused in another case. The defense attorney shall not be allowed to defend other suspects or accused persons in a joinder or separate proceedings.

Article 51

Procedure to Disqualify the Defense Attorney

(1) The decision for disqualification of a defense attorney shall be issued at a separate hearing attended by the prosecutor, the suspect or the accused, the defense attorney and a representative of the Bar Association, to which the defense attorney belongs.
(2) The disqualification proceedings may also be conducted without the presence of the defense attorney, provided that the defense attorney has been duly summoned and that the summons to the hearing contains a statement warning the defense attorney that the proceeding shall be conducted even without his presence. A transcript shall be taken during the hearing.

Article 52

Disqualification Procedure

(1) The decision on disqualification referred to in Article 51 of this Code shall be made prior to the commencement of the main trial by the panel (Article 24 Paragraph 5), whereas at the main trial it shall be made by the judge or the panel. In the proceedings before an appellate panel the decision on disqualification of the defense attorney shall be made by the panel competent for ruling in the appellate proceedings.
(2) No appeal shall be allowed against the decision referred to in Paragraph 1 of this Article.
(3) If the defense attorney has been disqualified from the proceedings, he may be ordered to bear the costs incurred as a result of the discontinuation of or delay in the proceedings.

Article 53

When the Right to Mandatory Defense Applies

(1) A suspect shall have a defense attorney at the first questioning if he is mute or deaf or if he is suspected of a criminal offense for which a penalty of long-term imprisonment may be pronounced.
(2) A suspect or accused must have a defense attorney immediately after he has been ordered to be detained in pre-trial custody, throughout the pre-trial custody.
(3) After an indictment has been brought for a criminal offense for which a prison sentence of ten (10) years or more may be pronounced, the accused must have a defense attorney at the time of the delivery of the indictment.
(4) If the suspect, or the accused in the case of a mandatory defense, does not retain a defense attorney himself, or if the persons referred to in Article 47, Paragraph 3, of this Code do not retain a defense attorney, the preliminary proceedings judge, preliminary hearing judge, the judge or the Presiding judge shall appoint a defense attorney to represent him in the proceedings. In this case, the suspect or the accused shall have the right to a defense attorney until the verdict becomes finally binding and, if a long-term imprisonment is pronounced, in appellate proceedings.

(5) If the court finds it necessary in the interest of justice, due to the complexity of the case or the mental condition of the suspect or the accused, it shall appoint an attorney to defend him.
(6) In the case of appointing a defense attorney, the suspect or the accused shall be asked to select a defense attorney from the presented list himself. If the suspect or the accused does not select a defense attorney from the presented list himself, the defense attorney shall be appointed by the court.

Article 54

Appointment of Defense Attorney for the Indigent Person

(1) When requirements for the mandatory defense are not met, and the proceedings are conducted for an offense for which a prison sentence of three (3) years may be pronounced or more or when the interest of justice so requires, regardless of the prescribed punishment, a defense attorney shall be assigned to the accused at his request if, due to an adverse financial situation, he is not able to pay the expenses of the defense.
(2) The request for appointment of a defense attorney referred to in Paragraph 1 of this Article may be filed at any time during the criminal proceedings. The preliminary proceedings judge, preliminary hearing judge, the judge or the presiding judge shall appoint the defense attorney after the suspect or the accused was given an opportunity to select a defense attorney from the presented list.

Article 55

The Right of a Defense Attorney to Inspect Files and Documentation

(1) During an investigation, the defense attorney has the right to inspect the files and obtained items that are in favor of the suspect. This right can be denied to the defense attorney if the disclosure of the files and items in question would endanger the purpose of the investigation.
(2) Notwithstanding Paragraph 1 of this Article, when the suspect or the accused is in pre-trial custody, the prosecutor shall submit the evidence to the preliminary proceedings judge for the purpose of informing the defense attorney.
(3) After the indictment is issued the defense attorney of the suspect or accused has the right to inspect all files and pieces of evidence.
(4) Upon obtaining any new piece of information or a fact that can serve as evidence at a trial, the preliminary proceedings judge, the judge or the panel, as well as the prosecutor, shall be bound to submit them for inspection to the defense attorney.
(5) In cases referred to in Paragraphs 3 and 4 of this Article, the defense attorney may make copies of all files or documents.

Article 56

Communication between a Suspect or Accused and Defense Attorney

(1) If the suspect or accused is in custody, he shall immediately be entitled to communicate with the defense attorney, orally or in writing.
(2) During the conversation, the suspect or accused and his attorney may be observed, but the conversation shall not be heard.

Article 57

Dismissal of the Appointed Defense Attorney

(1) The suspect or accused may retain another defense attorney on his own instead of the appointed defense attorney. In this case, the appointed defense attorney shall be dismissed.
(2) A defense attorney may seek to withdraw from the case only as provided by law.
(3) The dismissal of the defense attorney referred to in Paragraph 1 and Paragraph 2 of this Article shall be decided during investigation by the preliminary proceedings judge after the issuance of indictment by the preliminary hearing judge, whereas during the main trial by the judge or the panel trying the case. No appeal is allowed against this decision.
(4) At the request of the suspect or accused or with his consent, the preliminary proceedings judge, the preliminary hearing judge, the judge or the panel may dismiss a defense attorney who is not performing his duties properly. Another defense attorney shall be appointed instead of the dismissed defense attorney. The Bar Association to which the dismissed defense attorney belongs shall be informed immediately about the dismissal of the defense attorney.

Article 58

Defense Attorney's Actions

(1) The defense attorney in representing a suspect or an accused shall take all necessary steps aimed at the establishment of the facts and the collection of evidence in favor of the suspect or accused as well as protection of his rights.
(2) The rights and duties of the defense attorney shall not cease when his power of attorney is withdrawn, until the trial judge or the panel releases the defense attorney from his rights and duties.

CHAPTER VIII

SUBMISSIONS, RECORDS AND TRANSCRIPTS

Article 59

Manner of Filing of Submissions

(1) Bills of indictment, motions, legal remedies and other statements and communications shall be submitted in writing or given orally for entry into the transcript.
(2) A submission referred to in Paragraph 1 of this Article shall be comprehensible and shall contain all that is necessary in order to be acted upon.
(3) Unless otherwise determined by this Code, the person filing a submission that is incomprehensible or does not contain all that is necessary for action on the submission, shall be summoned by the court to correct or amend the submission; should he not do so within a specified period, the court shall dismiss the submission.
(4) The summons to correct or to amend the submission shall warn the person who filed the submission about the consequences of his failure to correct/amend it.

Article 60

Delivery of the Submission to the Opposing Party

(1) Submissions that under this Code shall be delivered to the opposing party in the proceedings shall be delivered to the court in a sufficient number of copies for the court and the other party.
(2) If such submissions have not been filed with the court in a sufficient number of copies, the court shall summon the submitting party to file a sufficient number of copies within a specified period of time. If the submitting party fails to act as ordered by the court, the court shall make the necessary number of copies at the expense of the submitting party.

Article 61

Punishing Persons Insulting the Court

The court shall impose a fine of up to 5,000 KM on the prosecutor, defense attorney, attorney-in-fact, legal representative or injured party who in a submission or verbal statement insults the court. An appeal is allowed against this decision. The High Judicial and Prosecutorial Council of Republika Srpska shall be informed of the penalty pronounced on the prosecutor, and the appropriate Bar Association shall be informed of the penalty pronounced on the attorney.

Article 62

Obligation to Take the Record

(1) A record shall be taken down for each step in the course of criminal proceedings at the time when such a step is being taken; if this is not possible, then this shall be done immediately thereafter.
(2) The record shall be taken down by the record taker. Only when a search of a dwelling or person is made or when an action is taken off the official premises of the relevant body or agency, and the record taker is not available, may the record be drawn up by the person undertaking the action.
(3) When the record is taken down by the record taker, the record taker shall take down the record in such a manner that the person taking the action informs the record taker aloud what will be entered in the record.
(4) A person being questioned shall be allowed to state his answers for the record in his own words. This right may be denied if it is abused.

Article 63

Contents of the Record of Proceedings

(1) The entry in the record of proceedings shall include: the name of the body before which the action is being taken, the venue where the action is being taken, the date and the hour when the action began and ended, the first and last names of the persons present and the capacity in which they are present, and an identification of the criminal case in which the action/proceeding is being taken.
(2) The record should contain the essential information about the course and content of the action taken. The questions and responses shall be entered in the record verbatim. If physical objects or papers are forfeited in the course of the action, this shall be indicated in the record, the articles taken shall be attached to the record, or the place where they are being kept shall be indicated.
(3) In the conduct of actions such as an inquest at the crime scene, search of a dwelling or person, or the identification of persons or objects, information that is

important in view of the significance of that action or for establishing the identity of certain articles, including description, dimensions and size of an article or traces and labelling articles, shall also be entered in the record; if sketches, drawings, layouts, photographs, films, and the like are made, this shall be entered in the record, and they shall be attached to the record.

Article 64

Taking Down the Record of Proceedings

(1) The record of proceedings shall be kept in a correct way; nothing in the record of proceedings shall be deleted, added or amended. Parts that are crossed out shall be left legible.
(2) All changes, corrections, and additions shall be noted at the end of the record of proceedings and shall be certified by the persons signing the record of proceedings.

Article 65

Reading and Signing the Record of Proceedings

(1) The suspect or accused or other person being questioned, the defense attorney and the injured party are entitled to read the record of proceedings or to demand that they be read to him. The person conducting the proceedings must make the said individuals aware of this right, and it shall be noted in the record of proceedings whether they have been so informed and whether the record of proceedings have been read. The record shall always be read if the record taker was not present, and that shall be indicated in the minutes.
(2) The record of proceedings shall be signed by the person being questioned or heard. If the record of proceedings consist of more than one folded sheet, the person being questioned shall sign each folded sheet.
(3) The record of proceedings shall be signed at the end by the interpreter, if any, by witnesses whose presence was compulsory during the conduct of investigative action/ proceedings, and, during a search, by the person searched or the person whose dwelling was searched. If the record of proceedings are not kept by the record taker, the record shall be signed by persons present on the occasion of the action. If there are no such persons, or if persons present are unable to understand the contents of the minutes, the record shall be signed by two witnesses, except in cases where it has not been possible to provide them.
(4) An illiterate person shall place the print of the index finger of his right hand in place of a signature, and the record taker shall enter the person’s first and last name underneath the fingerprint. If the print of some other finger or a print of a finger of the left hand is made because it is not possible to make a fingerprint of the right index finger, the record of proceedings shall indicate the finger and hand from which the print was taken.
(5) If the person being questioned has neither hand, he shall read the record of proceedings/minutes, and if he is illiterate the record of proceedings shall be read to him, and this shall be noted in the record of proceedings.
(6) If the person being questioned refuses to sign the record of proceedings or to place his fingerprint, this shall be noted in the record of proceedings along with the reason for the refusal.
(7) If the action could not be conducted without an interruption, the record shall indicate the day and hour when the interruption occurred and the day and hour when the action was resumed.

(8) If there have been objections pertaining to the contents of the record, those objections shall also be indicated in the record.
(9) The record shall be signed at the end by the person who conducted the action and by the record taker.

Article 66

Electronical Recording

(1) As a general rule, all undertaken proceedings/actions during the criminal procedure shall be electronically recorded. The prosecutor or authorized official shall inform the person being questioned that the questioning shall be recorded, and inform him that he has the right to ask for a playback of the recording in order to verify his statement.
(2) The recording shall contain the information referred to in Article 63 Paragraph 1 of this Code, information necessary to identify the individual whose statement is being electronically recorded, and information as to the capacity in which that person is making the statement. When the statements of several persons are recorded, care shall be taken so that a listener can clearly recognize from the recording who has made the statement.
(3) The recording shall be immediately played back at the request of the person questioned, and the corrections or clarifications by that person shall be recorded.
(4) The record concerning the investigative action/proceeding shall state that a recording was made, shall indicate who made the recording, shall state that the person being questioned was informed in advance that the proceeding was being recorded and that the recording was played back, and it shall also indicate where the recording is kept if it is not attached to the file.
(5) The prosecutor may order for a recording to be entirely or partially transcribed. The prosecutor shall examine and certify the transcript and attach it to the report of the investigative proceeding.
(6) The recording shall be kept as long as the criminal file is kept.
(7) The prosecutor may allow persons with a legitimate interest to record investigative proceedings.
(8) The provisions of Paragraphs 1 through 7 of this Article shall also be applied accordingly when an investigative proceeding is filmed or recorded in some other manner.
(9) The recordings referred to in Paragraph 1 through 8 of this Article shall not be publicly played without written approval of the parties and other participants in the recorded proceeding/action.

Article 67

Appropriate Application of Other Provisions of This Code

Also the provisions of Articles 252 through 254 of this Code shall apply to the record of proceedings.

Article 68

Minutes on Deliberations and Voting

(1) Separate minutes shall be made concerning the deliberations and voting process.
(2) The minutes on the deliberations and voting of the panel shall contain the course of the voting and the verdict rendered.

(3) These minutes shall be signed by all the members of the panel and the minutes taker. Dissenting opinions shall be appended to the minutes of the deliberation and voting unless they have been entered in the minutes.
(4) The minutes concerning the deliberations and voting of the panel of judges shall be enclosed in a separate envelope. The minutes shall be reviewed exclusively by the panel of appellate court when deciding appeals or other legal remedies and in this case, which shall re-enclose the minutes in a separate envelope and indicate on the envelope that it has reviewed the minutes.

CHAPTER IX

DEADLINES

Article 69

Deadlines for Filing of Submissions

(1) The deadlines provided by this Code shall not be extended unless explicitly allowed by this Code. If a deadline specified by this Code is to protect the right to defense or other rights of the suspect or the accused in the procedure, that deadline may be shortened at the request made in writing, or verbally by the suspect or the accused before the record taker who shall enter it into the record of proceedings.
(2) When a statement must be made within a specified period of time, it shall be assumed that it has been made within the specified period of time if it has been given to the person authorized to receive it before the expiration of that period.
(3) When a statement has been sent by registered mail, telegraph or other telecommunication means, the date of mailing or sending shall be taken as the date of delivery to the person to whom it has been sent.
(4) The suspect or the accused who is in pre-trial custody may also make a statement subject to a deadline before the record taker who shall enter it into the report of proceedings or deliver it to the administration of the prison, and a person who is serving a prison sentence or who is an inmate in some other institution because of a security measure or correctional measure may deliver such a statement to the administration of the institution in which he is an inmate. The day when the record was made or when the statement was delivered to the administration of the institution shall be taken as the date of delivery to the body competent to receive it.
(5) If a submission subject to a deadline has been delivered or sent to a court that is not competent, due to ignorance or an obvious mistake of the sender, and reaches the court after the expiration of the deadline, it shall be considered that it was submitted on time.

Article 70

Computing Deadlines

(1) Deadlines shall be computed in hours, days, months and years.
(2) The hour or day when a delivery or communication was made or when an event occurred, which has to serve as the point of commencement of a deadline, shall not be included in the deadline, but the first subsequent hour or day, as applicable, shall be taken as the point of commencement of the period of time. Twenty-four (24) hours shall be taken as a day, but a month shall be computed on the basis of the calendar.

(3) Deadlines stated in months or years shall expire in the last month or year at the end of the same day of the month or the year on which the period began, as applicable. If there is no such day in the last month, the period shall expire on the last day of that month.
(4) If the last day of the deadline falls on a state holiday, Saturday, Sunday, or on any other day when the governmental body in question does not work, the deadline shall expire at the end of the next working day.

Article 71

Conditions for Restoring *Status Quo Ante*

(1) If the accused shows good reasons for failing to meet the deadline for making an appeal against a verdict or a decision pronouncing a security measure or correctional measure or a decision on forfeiture of the proceeds of crime, the court shall restore the *status quo ante* for purposes of submitting the appeal if, within eight days following the termination of the reasons for failing to meet the deadline, the accused submits a request for restoring the *status quo ante* and files his appeal simultaneously with the request.
(2) Restoring the *status quo ante* may not be requested if three (3) months have passed from the date of failure to meet the deadline.

Article 72

Decision on Restoring *Status Quo Ante*

(1) The decision on restoring the *status quo ante* shall be made by the judge or the presiding judge who rendered the verdict or the decision being contested by the appeal.
(2) No appeal shall be allowed against a decision restoring the *status quo ante*.

Article 73

Consequences of Filing a Request for Restoring *Status Quo Ante*

As a general rule, a request for restoring the *status quo ante* shall not stay execution of a verdict or execution of a decision granting a security measure or correctional measure or a decision to forfeit property gain, but the court may decide to stay the execution until a decision is made at request.

CHAPTER X

RENDERING AND COMMUNICATION OF DECISIONS

Article 74

Types of Decisions

(1) Decisions shall be rendered in criminal proceedings in the form of a verdict, decision or order.
(2) A verdict shall be rendered only by a court, while procedural decisions and orders shall also be issued by other bodies participating in criminal proceedings.

Article 75

Deciding at the Deliberation and Voting Sessions

(1) Decisions of a panel of judges shall be rendered after oral deliberation and voting. A decision shall be adopted when a majority of members of the panel have voted in favor of it.

(2) The president of the panel shall direct both the deliberation and vote and shall cast the final vote. He shall be responsible for ensuring that all issues are examined in a full and comprehensive manner.
(3) If votes on certain issues have been divided among several different opinions, and if none of them is joined by majority, the issues shall be separated and voting shall be repeated until one is joined by majority of the panel. If no majority decision has been reached in this manner, the decision shall be adopted by adding those votes that are most unfavorable for the accused to the votes that are less unfavorable until the majority decision is reached.
(4) Members of the panel cannot refuse to vote on questions put by the presiding judge of the panel, but a member of the panel who has voted to acquit the accused or to reverse the verdict and who is minority shall not be required to vote on the penalty. If he does not vote, it shall be taken that he cast the vote that was most favorable for the accused.

Article 76

Manner of Voting

(1) During the adoption of a decision, a vote shall first be taken on whether the court is competent, whether it is necessary to supplement the proceedings, and on other preliminary issues. When a decision has been taken on preliminary issues, the panel shall begin to consider the main issue.
(2) During the adoption of a decision on the main issue a vote shall first be taken on whether the accused committed the criminal offense and whether he is criminally responsible, and thereafter a vote shall be taken on the sentence, other criminal sanctions, costs of criminal proceedings, property claims and other issues to be decided.
(3) If an individual has been charged with several criminal offenses, a vote shall be taken on criminal responsibility and sentences for each criminal offense, and thereafter a vote shall be taken on a total sentence for all criminal offenses.

Article 77

Closed Session

(1) Deliberation and voting shall be done in a closed session.

(2) Only members of the panel and a record taker may be present in the room where the court conducts its deliberation and voting.

Article 78

Communication of Decisions

(1) Unless otherwise determined by this Code, decisions shall be communicated to parties by way of oral announcement in open court if they are present or a certified copy shall be delivered to them if they are absent.
(2) If a decision has been orally communicated, this shall be recorded in the record of proceedings and the file, and the person who has acknowledged the communication shall confirm this by his signature. If the concerned person declares that he will not appeal, no certified copy of the orally communicated decision shall be delivered to him unless otherwise determined by this Code.
(3) Copies of decisions against which an appeal is allowed shall be delivered, along with the instruction as to the right of appeal.

CHAPTER XI

SERVICE OF COURT PAPERS AND REVIEW OF DOCUMENTS

Article 79

Manner of Service

(1) As a general rule, the service of process shall be conducted by mail. The service may also be made through an official person of the authority that rendered the decision or directly with that authority.
(2) The court may also communicate a summons for the main trial or other summons orally to a person who is before the court; such communication shall include an instruction as to the consequences of a failure to appear. Orally communicated summons shall be noted in the record, which the person summoned shall sign, unless such summons has been recorded in the record of proceedings. It shall be considered that valid service of process has thereby been made.

Article 80

Personal Service

A writ or notice that under this Code must be personally served shall be served on the person to whom it is directed by actual delivery. If the person on whom a writ or notice must be personally served has not been found where the delivery was to take place, the writ server shall make inquiries as to when and where that person may be found and shall leave with one of the persons under Article 81 of this Code a written notice that he should be in his dwelling or at his workplace at a particular day and hour in order to receive the writ or notice. If even after this the writ server does not find the person to whom the writ or notice is to be delivered, he shall use the procedure under the provision of Article 81, Paragraph 1 of this Code, and it shall be assumed that service has been accomplished.

Article 81

Substituted Service

(1) Writs and notices for which this Code does not specify personal service shall also be served by actual delivery; but if the recipient is not found at home or at work, such writ or notice may be given to any of adult members of his household, who must accept the court paper. Should any of the household members not be found at home, the court paper shall be left with a neighbor, if he consents to accept it. If a writ or notice is delivered to a person at his workplace, and the person concerned has not been found there, the document may be delivered to a person authorized to receive mail, who must accept the document, or to a person employed at the same workplace, if he consents to accept it.
(2) Should it be established that the person to whom a writ or notice is to be delivered is absent and that persons under Paragraph 1 of this Article are therefore not in the position to present the court paper to him in a timely manner, the writ or notice shall be returned with an indication as to whereabouts of the absent person.

Article 82

Contents of Personally Served Documents

(1) The summons to the first interrogation in the investigation, the summons for the main trial, and the summons for the sentencing hearing shall be personally served on the suspect or accused.

(2) The indictment and also the verdict and other decisions for which the period of time for appeal commences on the date of their service, including the appeal by the opposing party submitted for an answer, shall be personally served on an accused who does not have a defense attorney. At the request of the accused, the verdict and other decisions shall be served on a person designated by him.
(3) If the accused who does not have a defense attorney is to be delivered a verdict by which a sentence of imprisonment has been pronounced against him, and the verdict cannot be served at his previous address, the court shall *ex officio* appoint an attorney for defense of the accused, who shall perform that duty until the new address of the accused has been ascertained. The appointed defense attorney shall be given the necessary period of time to acquaint himself with the case file, whereupon the verdict shall be served on the appointed defense attorney and the proceeding shall resume. If it concerns another decision whose date of service becomes the date of commencement of the period of time for an appeal or if it concerns an appeal of the opposing party that is being submitted for an answer, the decision or appeal shall be posted on the bulletin board of the court, and at the end of eight (8) days from the date of posting it shall be assumed that service has been accomplished.
(4) If the accused has a defense attorney, the indictment and all decisions for which the period of time for filing an appeal commences on the date of service, and also the appeal of the opposing party submitted for an answer, shall be served on the defense attorney and the accused in accordance with the provisions of Article 81 of this Code. In such a case, the period for pursuing a legal remedy or answering the appeal shall commence on the date when the writ or notice is delivered to the accused or defense attorney. If the decision or appeal cannot be served on the accused because the accused has failed to report a change of address, the decision or appeal shall be posted on the bulletin board of the court and at the end of eight (8) days from the date of posting it shall be assumed that service has been accomplished.
(5) If a writ or notice is to be delivered to the defense attorney of the accused, and he has more than one defense attorney, it shall be sufficient to serve it on one of them.

Article 83

Certificate of Service

(1) The recipient and the person making the delivery shall sign the certificate of service confirming that service has been made. The recipient shall himself indicate the date of service on the certificate of service.
(2) If the recipient is illiterate or unable to sign his name, the person performing the service on him shall sign on his behalf, shall indicate the date of service, and shall make a note as to why he signed for the recipient.
(3) Should the recipient refuse to sign the receipt, the person performing the service on him shall make a note to that effect in the certificate of service and shall indicate the date of service, whereby service has been accomplished.

Article 84

Refusal to Receive a Writ or Process

If the recipient or an adult member of his family refuses to accept the writ or process, the person making the delivery shall note on the certificate of service the date, hour

and reason for refusal, and shall leave the writ or process in the dwelling of the recipient or in his workplace, whereby service has been accomplished.

Article 85

Service of Process in Special Cases

(1) A summons shall be served on a person deprived of liberty through the court or through the administration of the institution where he is an inmate.
(2) Persons who enjoy the immunity in Republika Srpska, unless otherwise specified under international treaties, shall be served a writ or notice through the Ministry of Foreign Affairs of Bosnia and Herzegovina.
(3) If the procedure set forth in Articles 411 and 412 of this Code does not apply, Republika Srpska nationals abroad shall be served through the diplomatic or consular missions of Bosnia and Herzegovina in a foreign country, provided that the foreign state does not oppose this manner of service and that the person being served voluntarily consents to receive the writ or summons. An authorized official of the diplomatic or consular mission shall sign the certificate of service as the person making the delivery if the summons is served within the mission office itself, and if the summons is sent by mail, he shall so indicate in the certificate of service.

Article 86

Service on the Prosecutor

(1) Decisions and other writs or notices shall be served on the prosecutor through the registry office of the prosecutor's office.
(2) In the case of service of decisions for which a period of time commences on the date of service, the date of presentation of the document to the registry office of the prosecutor's office shall be taken as the date of service.

Article 87

Applicability of Corresponding Provisions of Other Laws

In cases that have not been specifically covered by this Code, the sevice shall be made according to the provisions that apply to civil actions.

Article 88

Informing by Telegram or Telephone

(1) The persons other than the accused who are participants in the proceedings, may be informed of a summons to a main trial or other summons and of a decision postponing a main trial or other scheduled actions, by telegram or telephone if it can be assumed from the circumstances that notice given in that manner will be received by the persons to whom it is addressed.
(2) An official note shall be made in the case file that a summons or decision notice has been served in the manner provided by Paragraph 1 of this Article.
(3) The adverse consequences prescribed for failure to take action may ensue for a person who has been informed or to whom a decision was sent under Paragraph 1 of this Article only if it is ascertained that he received in a timely fashion the summons or decision and was made aware of the consequences of a failure to act.

CHAPTER XII

EXECUTION OF DECISIONS

Article 89

Execution of Finally Binding Verdicts

(1) A verdict shall become finally binding when it may no longer be contested by an appeal or when no appeal is allowed.
(2) A finally binding verdict shall be executed if its service has been accomplished and if there are no legal obstacles to its execution. If an appeal has not been filed, or if the parties have waived or abandoned the appeal filed, the verdict shall be considered enforceable by the expiration of the time period set forth for appeal, or as of the day of the waiving or abandonment of the appeal filed.
(3) The court shall be competent for the execution of finally binding verdicts.
(4) If a military ranking official has been convicted, the court shall deliver a certified copy of the finally binding verdict to the body in charge of the defense in which the convicted person is registered.

Article 90

Failure to Collect Fines

If a fine prescribed by this Code cannot be collected even in an execution sale, the court shall proceed in a manner provided for in the Criminal Code.

Article 91

Execution of an Order Concerning the Costs of Proceedings and Forfeiture of Property

(1) With respect to the costs of criminal proceeding, forfeiture of the proceeds of crime and property claims, the verdict shall be executed by the court under the provisions that apply to judicial enforcement procedure.
(2) Forcible collection of the costs of criminal proceeding for the budget of Republika Srpska shall be done *ex officio*. The costs of forcible collection shall be paid first from the court budget.
(3) If the verdict contains an order for forfeiture of property, the court shall decide whether the property will be sold under the provisions applicable to judicial enforcement procedure, turned over to the criminology museum or some other institution, or destroyed. The proceeds obtained from the sale of such property shall be credited to the budget of Republika Srpska.
(4) The provision of Paragraph 3 of this Article shall also be applied accordingly when a decision is made to forfeit property on the basis of Article 402 of this Code.
(5) Aside from the case of reopening/retrial of the criminal case, a finally binding order for forfeiture of property may be revised in a civil action if a dispute arises as to the ownership over the property forfeited.

Article 92

Other Enforceable Decisions

(1) Unless this Code provides otherwise, decisions shall be executed when they become finally binding. Orders shall be executed immediately unless the issuing body or agency orders otherwise.
(2) A decision becomes finally binding when it can no longer be contested by an appeal or when no appeal is allowed.

(3) Unless otherwise specified, decisions and orders shall be executed by the bodies that have issued them. If in its decision a court has disposed of the issue of costs of criminal proceedings, those costs will be collected under the provisions of Article 91, Paragraphs 1 and 2 of this Code.

Article 93

Doubts as to whether the Execution is Allowed

(1) If doubts arise as to whether the execution of a court decision is allowed or as to the computation of a sentence, or if a finally binding verdict fails to make a decision to credit pre-trial custody or a previously served sentence, or the computing has not been done correctly, a decision shall be made on those points in a separate decision that shall be made by the judge or by the presiding judge of the panel which tried the case in the first instance. An appeal shall not stay execution of the decision unless the court specifies otherwise.
(2) If doubt arises as to the interpretation of a court decision, the issue shall be resolved by the judge or by the panel of judges that rendered the finally binding decision.

Article 94

Validity of a Verdict on a Property Claim

When a decision containing a verdict on a property claim becomes finally binding, at the request of injured party, a certified copy of the decision shall be issued to him, with a note that the verdict is enforceable.

Article 95

Criminal Record Regulations

Regulations on the keeping of criminal records shall be issued by the Minister of Justice of Republika Srpska.

CHAPTER XIII

COSTS OF CRIMINAL PROCEEDINGS

Article 96

Types of Costs

(1) The costs of criminal proceedings are the expenses incurred in connection with criminal proceedings from the time they are instituted until they are completed.
(2) The costs of criminal proceedings include the following:

a) costs for witnesses, expert witnesses, interpreters and specialists and the cost of a crime scene investigation;
b) the cost of transporting the accused, or the suspect;
c) the expenses of requiring the suspect or the accused or person in custody to appear;
d) the transportation and travelling expenses of officials;
e) expenses of medical treatment of the suspect or the accused while in pre-trial custody, including the expenses of childbirth, except for the expenses covered from the health insurance fund;
f) costs of technical examination of vehicle, blood sample analysis and transportation of corpse to the place of autopsy;
g) a scheduled amount (*court fee*);

h) remuneration and necessary expenses of the defense attorney;
i) necessary expenses of the injured party and his legal representative.

(3) The scheduled amount shall be fixed within the limits of amounts specified by the appropriate regulation based on the duration and complexity of the proceedings and the financial condition of the person required to pay the amount.
(4) The expenses enumerated under Items a) through f) of Paragraph 2 of this Article and the necessary expenses of an appointed defense attorney shall be paid in advance from the funds of the prosecutor's office or the court, and they shall be collected later from the individuals who are required to reimburse for them under provisions of this Code. The body conducting the criminal proceeding must list all expenses that have been paid in advance, which shall be appended to the record.
(5) Costs of interpretation into the languages of the parties, witnesses and other participants in the criminal proceedings that are incurred in enforcing the provisions of this Code shall not be collected from individuals who under the provisions of this Code are required to reimburse for the costs of criminal proceeding.

Article 97

Decision Concerning the Costs

(1) In every verdict or decision dismissing criminal proceedings a decision shall be made as to who will cover the costs of the proceedings and as to the amount of these costs.
(2) If data on the amount of costs is not available, a special decision on the amount of costs shall be made by the court when such data is obtained. The request for the data on the amount of costs may be submitted not later than six (6) months after the day that a finally binding verdict or decision dismissing criminal proceedings is delivered to the person who is entitled to make such a request.
(3) When the decision on costs of criminal proceedings are contained in a separate decision, an appeal against that decision shall be ruled on by a panel of judges under article 24, paragraph 5 of the Code.

Article 98

Other Costs

(1) The suspect or accused, defense attorney, legal representative, witness, expert witness, interpreter and specialist, regardless of the outcome of the criminal proceeding, shall be liable for any costs incurred by police bringing them before the court or postponement of an investigative action or main trial or for any other costs incurred through their own fault.
(2) A separate decision shall be rendered concerning the costs referred to in Paragraph 1 of this Article, unless the matter of costs to be paid by the accused is settled in the decision on the main issue.

Article 99

Costs of Proceedings when the Accused is Found Guilty

(1) When the court finds the accused guilty, it shall declare in the verdict that the accused shall reimburse the costs of criminal proceedings.
(2) A person who has been charged with several criminal offenses shall not be ordered to reimburse for costs related to criminal offenses of which he has been acquitted if those costs can be determined separately from the total costs.

(3) In a verdict finding several defendants guilty, the court shall specify what portion of the costs shall be paid by each; but if this is not possible, it shall order that all the defendants be jointly and severally liable for the costs. Payment of the scheduled amount shall be specified for each accused separately.
(4) In the decision which settles the issue of costs the court may relieve the accused of the duty to reimburse all or part of the costs of criminal proceeding as referred to in Article 96, Paragraph 2, Items a) through h), of this Code if their payment would jeopardize subsistence of the accused or of persons whom the accused is required to support. If these circumstances are ascertained after the decision on costs has been rendered, the judge may issue a separate decision relieving the accused of the duty to reimburse the costs of criminal proceedings.

Article 100

Costs of Proceedings in the Event of Dismissal of Proceedings or a Sentence of Acquittal or Rejection of Charges

(1) When criminal proceedings are dismissed or when a verdict is rendered that acquits the accused or rejects the charge, the decision or verdict shall pronounce that the costs of criminal proceedings referred to in Article 96 Paragraph 2, Items a) through f) of this Code and the necessary expenditures of the accused and the necessary expenditures and remuneration of defense attorney shall be paid from the budget, except in the cases specified in the Paragraph 2 of this Article.
(2) A person who deliberately files a false charge shall pay the costs of the criminal proceedings.
(3) When the court rejects the charge because it is not competent, the decision on costs shall be made by the competent court.
(4) If the request for reimbursement for necessary costs and remuneration referred to in Paragraph 1 of this Article is not approved or the court fails to decide the request within three (3) months following the day of filing the request, the accused and defense attorney shall be entitled to settle their claims against Republika Srpska in a civil action.

Article 101

Remuneration and Necessary Expenses of the Defense Attorney

The remuneration and necessary expenses of the defense attorney shall be paid by the person represented regardless of who is ordered to pay the costs of criminal proceedings in the decision of the court, unless under the provisions of this Code the remuneration and necessary expenses of the defense attorney are to be paid from the court budget. If an attorney was appointed to defend the suspect or the accused, and payment of remuneration and necessary expenses would jeopardize subsistence of the accused or the maintenance of persons whom the accused is required to support, the remuneration and necessary expenses of defense attorney shall be paid from the court budget.

Article 102

Separate Regulations Concerning Reimbursement for Costs

1) The obligation to pay costs of appellate proceedings shall be decided in accordance with the provisions of Articles 96 through 101 of this Code.
2) More detailed regulations concerning reimbursement for the costs of criminal proceedings and the scheduled amount shall be issued by the Government of Republika Srpska.

CHAPTER XIV

PROPERTY CLAIMS

Article 103

Subject of the Property Claim

(1) A property claim that has arisen because of the commission of a criminal offense shall be deliberated on the motion of eligible or authorized persons in the criminal proceedings if this would not considerably prolong such proceedings.
(2) A property claim may concern compensation for damage, recovery of items, or annulment of a particular legal transaction.

Article 104

Filing a Property Claim

(1) A property claim to be adjudicated in the criminal proceedings shall be filed only by the person eligible or authorized to pursue that claim in a civil action.
(2) If a criminal offense has caused damage to property of Republika Srpska, the body empowered by law to protect such property may participate in the criminal proceedings in accordance with its powers under that law.

Article 105

Property Claim Procedure

(1) A property claim to be adjudicated in criminal proceedings shall be filed with the court.
(2) The claim shall be submitted no later than the end of the main trial or sentencing hearing before the court.
(3) The person eligible or authorized to submit the claim shall specify his demand and shall submit evidence.
(4) If the eligible or authorized person has not filed the petition to pursue his property claim in criminal proceedings before the indictment is confirmed, he shall be informed that he may file that petition by the end of the main trial or sentencing hearing.
(5) If a criminal offense has caused damage to property of Republika Srpska, and no claim has been filed, the court shall inform the body referred to in Article 104, Paragraph 2 of this Code about the failure.
(6) If the eligible or authorized person does not file the property claim until the end of the main trial or if he moves for a civil action, and the data concerning the criminal proceedings provide reliable grounds for a complete or partial resolution of the property claim, the court shall order in the judgment of conviction for gained property to be forfeited.

Article 106

Claim Withdrawal

(1) The injured party may withdraw a property claim that is to be adjudicate upon in criminal proceedings up to the end of the sentencing hearing and pursue it in a civil action. In the event that the claim has been withdrawn, that same claim may not be presented again unless otherwise provided under this Code.
(2) If after a property claim was filed and before the end of the sentencing hearing the property claim has been transferred under rules of property law to another person, that person shall be summoned to declare whether or not he supports the petition.

If he does not appear when duly summoned, he shall be considered to have abandoned the claim.

Article 107

Obligations of the Prosecutor and the Court in Relation to Finding of Fact

(1) The prosecutor has a duty to gather evidence and conduct the investigation to ascertain what is necessary for deciding a property claim related to the criminal offense.
(2) The court in which the proceedings have been instituted shall question the accused in relation to the facts of concern in the petition of the injured party.

Article 108

Ruling on the Property Claims

(1) The court shall decide property claims.
(2) The court may propose mediation through the mediator to the injured party and the accused or to the defense attorney in accordance with law, if the court considers that the property claim is such that it would be beneficial to refer it to the mediation. The injured party, the accused and the defense attorney may propose referral to the mediation before the closing of the main trial.
(3) In a verdict pronouncing the accused guilty, the court may award the injured party the entire property claim or may award him part of the property claim and refer him to a civil action for the remainder. If the data in the criminal proceedings does not provide a reliable basis for either a complete or partial award, the court shall instruct the injured party that he may take civil action to pursue his entire property claim.
(4) If the court renders a verdict acquitting the accused of the charge or dropping the charges or if it decides to dismiss the criminal proceedings, it shall instruct the injured party that he may pursue his property claim in a civil action.

Article 109

Decisions to Hand Over the Property to the Injured Party

If a property claim concerns the recovery of property, and the court finds that the property does belong to the injured party and is in the possession of the accused or one of the participants in the main trial or in the possession of a person to whom those persons gave it for safekeeping, it shall order in the verdict that the article be returned to the injured party.

Article 110

Decisions to Annul Certain Legal Transactions

If a property claim concerns the annulment of a specific legal transaction, and the court finds that the petition is well founded, it shall declare in its verdict complete or partial annulment of that legal transaction with the consequences that derive therefrom, without affecting the rights of third parties.

Article 111

Amending the Decision on a Property Claim

(1) A court may revise a finally binding verdict that contains a decision on a property claim only in connection with a reopening of criminal proceedings.

(2) Notwithstanding cases referred to in Paragraph 1 of this Article, the convicted person or his heirs may seek to revise a criminal court's finally binding verdict containing a decision on a property claim only in a civil action, as long as grounds for reopening damageexist under the provisions that apply to civil proceedings.

Article 112

Interlocutory Orders

(1) Interlocutory orders to secure a property claim arising from the commission of a criminal offense may be issued in criminal proceedings according to the provisions that apply to judicial enforcement procedure.
(2) The decision under Paragraph 1 of this Article shall be issued by the court. An appeal is allowed against this decision, which shall be ruled on by the panel under Article 24 Paragraph 5 of this Code. The appeal shall not stay execution of the decision.

Article 113

Recovery of Property in the Course of the Proceedings

(1) If a claim pertains to property that unquestionably belong to the injured party, and they do not constitute evidence in criminal proceedings, the property shall be given to the injured party even before the proceedings are completed.
(2) If the ownership of articles is claimed by several injured parties, they shall be referred to a civil action, and the court in criminal proceedings shall order only the safekeeping of the items as an interlocutory order.
(3) Items that serve as evidence shall be seized and at the end of the proceedings shall be returned to the owner. If such an item is urgently needed by the owner, it may be returned to him even before the end of the proceedings, under the provision that it be brought in at the request of the court.

Article 114

Interlocutory Orders Against Third Parties

(1) If an injured party has a claim against a third person because he possesses items obtained through a criminal offense or because he gained property as a result of a criminal offense, the court, upon the petition of eligible or authorized persons (Article 104) and according to the provisions that apply to judicial enforcement procedure, may issue, in the criminal proceedings, an interlocutory order even against that third party. The provisions of Article 112, Paragraph 2 of this Code shall apply in this case as well.
(2) In a judgment of conviction the court shall either revoke the orders referred to in Paragraph 1 of this Article, if they have not already been revoked, or shall refer the injured party to a civil action, in which case those orders shall be revoked unless the civil action is instituted within the period of time fixed by the court.

CHAPTER VIII

ACTIONS TO OBTAIN EVIDENCE

1. SEARCH OF DWELLINGS OR OTHER PREMISES AND PERSONS

Article 115

Search of dwellings, other premises and personal property

(1) A search of dwellings and other premises of the suspect, accused or other persons, as well as his personal property outside the dwelling may be conducted only when there are sufficient grounds for suspicion that the perpetrator, the accessory, evidence of a certain criminal offense or objects relevant to the criminal proceedings are located at the specific place.
(2) The search of personal property pursuant to Paragraph 1 of this article shall include a search of the computer and similar devices for automatic data processing connected with it. At the request of the court, the person using such devices is obliged to allow access to them, to hand over diskettes and magnetic tapes or other forms of saved data, as well as to provide necessary information concerning the use of the devices. A person, who refuses to do so, without cause for reasons that are referred to in Article 148 of this Code, may be punished under the provision of Article 129 Paragraph 5 of this Code.
(3) The search of computers and similar devices under paragraph 2 of this article shall be conducted by an information technology expert.

Article 116

Search of Persons

(1) The search of a person shall be permitted if it is likely that the person has committed a criminal offense or that through a search some objects or evidence relevant to the criminal proceedings may be found on that person.
(2) The search of a person shall be conducted by a person of the same sex.

Article 117

A Search Warrant

(1) The court may issue a search warrant under the conditions provided by this Code.
(2) A search warrant may be issued by the court at the request of the prosecutor or at the request of authorized officials having obtained an approval by the prosecutor.

Article 118

A Form of the Request for the Search Warrant

A request for the issuance of a search warrant may be submitted in writing or orally. If the request is submitted in writing, it shall be drafted, signed and certified in the manner as defined in Article 117 Paragraph 1 of this Code. The request for the issuance of a search warrant may be submitted in accordance with Article 120 of this Code.

Article 119

Contents of the Request for a Search Warrant

(1) The request for a search warrant must contain:
    a) the name of the court and the name and title of the requesting official;

b) facts indicating the likelihood that the persons, evidence and objects referred to in Article 114 Paragraph 1 of this Code will be found at the designated or described place, or with a certain person;
c) a request that the court issue a search warrant in order to find the person in question or to seize items.

(2) The request may also suggest that:
a) the search warrant be enforceable at any time of the day or night, where there is grounded suspicion that if the search is not conducted between the hours of 6:00 A.M. and 9:00 P.M., the property sought will be removed or destroyed if not seized immediately, or the person sought is likely to flee or commit another criminal offense or may endanger the safety of the executing authorized official or another person, if the search warrant is not enforced immediately or between the hours of 9:00 P.M. and 6:00 A.M.;
b) the executing authorized official enforce the warrant without prior presentation of the warrant, when there is grounded suspicion to believe that the property sought may be easily and quickly destroyed if not seized immediately, the presentation of such warrant may endanger the safety of the executing authorized official or another person or the person sought is likely to commit another criminal offense or may endanger the safety of the executing authorized official or another person.

Article 120

Oral Request for a Search Warrant

(1) An oral request for a search warrant may be filed when a delay would be detrimental. An oral request for a search warrant may be communicated to a preliminary proceedings judge also by telephone, radio or other means of electronic communication.
(2) Upon being advised that an oral request for a search warrant is being made, the preliminary proceedings judge shall record all of the remaining communication. If a voice recording device is used or a stenographic record made, the preliminary proceedings judge must have the record transcribed, certify the accuracy of the transcription and file the original record and transcript with the court within 24 hours of the issuance of the warrant. If longhand notes are taken, the judge shall sign a copy and file it with the court within 24 hours of the issuance of the warrant.

Article 121

The Issuance of a Search Warrant

(1) If the preliminary proceedings judge determines that the request for a search warrant is justified, he shall grant the request and issue a search warrant.
(2) When the preliminary proceedings judge decides to issue a search warrant based upon an oral request, the requesting official shall draft the warrant in accordance with Article 122 of this Code, and shall read it all to the preliminary proceedings judge.

Article 122

Contents of a Search Warrant

A search warrant must contain:

a) the name of the issuing court and, except where the search warrant has been obtained through an oral request, the signature of the preliminary proceedings judge who is issuing the warrant;
b) where the search warrant has been obtained through an oral request, it shall so indicate and it shall state the name of the issuing judge and the time, date and place of issuance;
c) the purpose of the search;
d) the name, department or rank of the authorized official to whom it is addressed;
e) a description of the person being sought or a description of the property that is the subject of the search;
f) a description of the dwelling or other premises or person to be searched, by indicating the address, ownership, name or any other indicators essential for identification with certainty;
g) a direction that the warrant be executed between hours of 6:00 A.M. and 9:00 P.M., or, where the court has specifically so determined, an authorization for execution thereof at any time of the day;
h) an authorization, where the court has specifically determined, for the executing authorized official to enter the premises to be searched without giving prior notice;
i) a direction that the warrant and any property seized pursuant thereto be delivered to the court without delay;
j) an instruction that the suspect is entitled to notify the defense attorney and that the search may be conducted without the presence of the defense attorney if required by the extraordinary circumstances.

Article 123

Time of the Enforcement of a Search Warrant

(1) A search warrant must be executed not later than 72 days from the day of its issuance and it must thereafter be returned to the court without delay.
(2) A search warrant may be executed on any day of the week. It may be executed only between the hours of 6:00 A.M. and 9:00 P.M., unless the warrant expressly authorizes execution thereof at any time of the day or night, as provided in Article 119 Paragraph 2 this Code.

Article 124

Procedure of the Enforcement of a Search Warrant

(1) Prior to the commencement of a search an authorized official shall give notice of his authority and of the purpose of his arrival and show the warrant to the person whose property is to be searched or who himself is to be searched. If the authorized official is not thereafter admitted, he may resort to the use of force in accordance with the law.
(2) In executing a search warrant that directs a search of a dwelling or other premises, an authorized official need not give notice to anyone of his authority and purpose, but may promptly enter the same, if such premises or vehicle is at the time unoccupied or reasonably believed by the authorized official to be unoccupied and if the search warrant expressly authorizes entry without notice.
(3) The occupant of the dwelling or other premises shall be called to be present at the search, and if he is absent, his representative or an adult member of the household or a neighbor shall be called to be present. If the occupant of the dwelling or other

premises is not present, the search warrant shall be left in the premise subject to search, and the search shall be conducted without the presence of the occupant.

(4) A search of the dwelling or other premises or of the person shall be witnessed by two adult citizens. Witnesses of the same gender shall be present at the search of the person. Witnesses shall be instructed to pay attention as to how the search is conducted, and that they have the right to make comments before signing the record on the search if they believe that the content of the record is not truthful.

(5) In conducting a search of official premises, the manager or person in charge shall be called in to be present at the search.

(6) If a search is to be conducted in a military facility, a written search warrant shall be delivered to the military authority who shall assign at least one military person to be present at the search.

Article 125

Duties and Powers of an Authorized Official

In executing a search warrant directing or authorizing the search of a person, an authorized official must give notice of his authority and purpose to the person and must produce the warrant to the person to be searched. The authorized official may use physical force in accordance with the law.

Article 126

Record of Search

(1) A record shall be made regarding every search of dwellings or other premises or person, which shall be signed by the person whose dwellings or other premises are or who is being searched and the persons, whose presence is mandatory. In executing a search, only those objects and documents shall be seized that relate to the purpose of the search in that individual case. The record shall include and clearly identify the objects and documents that are the subject of seizure, which shall be indicated in a receipt immediately to be given to the person from whom the objects or documents are being seized.

(2) If, during a search of dwellings or other premises or a person, objects are found that are unrelated to the criminal offense for which the search warrant was issued, but indicate another criminal offense, they shall be described in the record and temporarily seized and a receipt on the seizure shall be issued immediately. The prosecutor shall be notified thereof. Those objects shall be returned immediately if the prosecutor establishes that there are no grounds for initiating criminal proceedings, and there is no other legal ground for seizing the objects.

(3) The objects used in the search of the computer and similar electronic devices for automatic data processing shall be returned to their users after the search, unless they are required for the further conduct of the criminal proceedings. Personal data obtained by the search may be used only for the purpose of the criminal proceedings and shall be deleted immediately after the purpose is fulfilled.

Article 127

Seizure of Objects under a Search Warrant

(1) Upon temporary seizure of objects pursuant to a search warrant, an authorized official must draft and sign a receipt indicating the objects seized and the name of the issuing court.

(2) If an object has been temporarily seized from a person, the receipt referred to in Paragraph 1 of this Article must be given to that person. If an object has been

seized from a dwelling or other premises, such receipt must be given to the owner, tenant or user, as applicable.

(3) Upon seizing objects pursuant to a search warrant, an authorized official must, without unnecessary delay, return to the court the warrant and the property, and must file therewith a written inventory of the seized objects.

(4) Upon receiving objects seized pursuant to a search warrant, the court shall keep them in the custody of the court pending further disposition.

Article 128

Search without Warrant

(1) An authorized official may enter a dwelling or other premises without a warrant and without a witness and, if necessary, conduct a search if the occupant so desires, if someone calls for their help, if this is required to apprehend a suspect of a criminal offense who has been caught in the act, or for the sake of the safety of a person or property, if the person who is to be apprehended by the court order is in the dwelling or other premises or if the person is hiding in the dwelling or in other premises.

(2) An authorized official may search a person without a search warrant and without witnesses:

a) when executing an apprehension warrant;

b) when arresting the person;

c) when there is suspicion that the person possesses a firearm or knife;

d) when there is suspicion that he will conceal or destroy articles that are to be seized and used as evidence in criminal proceedings.

3) After an authorized official conducts a search without a search warrant, he must immediately submit a report to the prosecutor, who shall inform the preliminary proceedings judge of the search. The report shall state the reasons why the search was completed without a warrant.

2**. Seizure of Objects and Property**

Article 129

Warrant for Seizure of Objects

(1) Objects that are the subject of seizure pursuant to the Criminal Code or that may be used as evidence in the criminal proceedings shall be seized temporarily and their custody shall be secured pursuant to a court decision.

(2) The seizure warrant shall be issued by the preliminary proceedings judge on the motion of the prosecutor or on the motion of authorized officials approved by the prosecutor.

(3) The seizure warrant shall contain the name of the court, legal grounds for undertaking the action of seizure of objects, indication of the objects that are subject to seizure, the name of persons from whom objects are to be seized, the place where the objects are to be seized, a timeframe within which the objects are to be seized, and notification of the right of the affected person to a legal remedy.

(4) The authorized official shall seize objects on the basis of the issued warrant.

(5) Anyone in possession of such objects must turn them over at the request of the preliminary proceedings judge. A person who refuses to surrender articles may be fined in an amount up to 50,000 KM, and may be imprisoned if he persists in his refusal. Imprisonment shall last until the article is surrendered or until the end of

criminal proceedings, but no longer than 90 days. The same provisions shall apply to an official or responsible person in a state body or a legal entity.

(6) The provisions of Paragraph 5 of this Article shall also apply to the data stored in devices for automated or electronic data processing. In obtaining such data, special care shall be taken with respect to regulations governing the maintenance of confidentiality of certain data.

(7) An appeal against a decision on fine or on imprisonment shall be decided by the panel (article 24 paragraph 5). The appeal shall not stay execution of the decision.

(8) When articles are seized, a note shall be made of the place where they were found, and they shall be described, and if necessary, establishment of their identity shall also be provided for in some other manner. A receipt shall be issued for articles seized.

(9) Forceful measures referred to in Paragraph 5 and 6 of this article may not be applied to the suspect or the accused or to persons who are exempted from the duty to testify.

Article 130

Seizure without Seizure Warrant

(1) If a delay would be detrimental, items referred to in Paragraph 1 of Article 129 of this Code may be seized even without the court order. If the person affected by the search explicitly opposes the seizure of items, the prosecutor shall, within 48 hours following the completion of the search, file to a preliminary proceedings judge a motion for a subsequent approval of the seizure of items.

(2) If the preliminary proceedings judge denies the prosecutor’s motion, the items seized may not be used as evidence in the criminal proceedings. The seized items shall be immediately returned to the person from whom they have been seized.

Article 131

Seizure of Mail and Telegrams and other Consignments

(1) Seizure may be performed with respect to the mail and telegrams that are addressed to or sent by the suspect or the accused and that are found with a company or persons engaged in postal and telecommunication activities.

(2) The seizure may also be performed with respect to the mail and telegrams referred to in Paragraph 1 of this Article when it can reasonably be expected that they shall serve as evidence in the proceedings.

(3) A seizure warrant for the temporary seizure of objects referred to in Paragraph 1 of this Article shall be issued by the preliminary proceedings judge on the motion of the prosecutor.

(4) A warrant for the temporary seizure of objects may also be issued by the prosecutor, if a delay would be detrimental. Such warrant must, however, be confirmed by the preliminary proceedings judge within 72 hours following the seizure.

(5) If the warrant fails to be confirmed pursuant to the provision of the Paragraph 4 of this Article, the seized objects may not be used as evidence in the proceedings.

(6) The measures undertaken as provided under this Article shall not apply to the mail exchanged between the suspect or the accused and his or her defense attorney.

(7) A seizure warrant referred to in Paragraph 3 of this Article shall include: information on the suspect or the accused whom the warrant concerns, the manner of execution of the warrant and the duration of the measure, and the company that will execute the measure imposed. The measures taken may not last longer than

three (3) months, but for an important reason, the preliminary proceedings judge may extend the measures for three (3) additional months. The measures taken shall, however, be terminated as soon as the reasons for taking them cease to exist.

(8) Without prejudice to the interest of conducting criminal proceeding, the suspect or the accused who is the subject of the measures referred to in Paragraph 1 shall be informed of those measures taken.

(9) Mail delivered shall be opened by the prosecutor in the presence of two witnesses. In opening the mail, care shall be taken not to break the seal and the packaging and the address shall be kept. A record shall be made regarding the opening.

(10) The content of a part of the mail or the mail, as applicable, shall be communicated to the suspect or the accused or the recipient, and a part of the mail or the mail shall be handed over to that person, unless the prosecutor, exceptionally, considers the transfer to be detrimental to the success of the criminal proceedings. If the suspect or the accused is absent, his family members shall be notified of the mail delivery. If the suspect or the accused does not request the delivery of the mail thereafter, the mail shall be returned to the sender.

Article 132

A Written Inventory of the Seized Objects and Documents

(1) After the seizure of objects and documentation, an inventory list of the temporarily seized objects and documents shall be made and a receipt concerning the objects and documents seized shall be written.

(2) If making an inventory list of objects and documentation is impossible, the objects and documentation shall be wrapped and sealed.

(3) Objects seized from a physical person or legal person may not be sold, given as a gift or otherwise transferred.

Article 133

Right to Appeal

(1) The person from whom objects or documentation are seized shall have the right to appeal.

(2) The filing of an appeal referred to in Paragraph 1 of this Article shall not stay the temporary seizure of objects.

(3) The appeal referred to in Paragraph 1 of this Article shall be decided by the Panel referred to in Article 24, Paragraph 5 of this Code.

(4) The prosecutor has the right to appeal against the decision of the court by which the seized objects and documents are to be returned.

Article 134

Safekeeping of the Seized Objects and Documents

The seized objects and documentation shall be deposited with the court, or the court shall otherwise provide for their safekeeping.

Article 135

Opening and Inspection of the Seized Objects and Documents

(1) The opening and inspection of the seized objects or documentation shall be done by the prosecutor.

(2) The prosecutor shall notify the person or the business enterprise from which the objects were seized, the preliminary proceedings judge and the defense attorney about the opening of the seized objects or documentation.

(3) When opening and inspecting the seized objects and documents, attention shall be paid that no unauthorized person gets the insight into their contents.

Article 136

Order Issued to a Bank or to Another Legal Person

(1) If there are grounds for suspicion that a person has committed a criminal offense related to acquisition of material gain, the preliminary proceedings judge may at the motion of the prosecutor issue an order to a bank or another legal person performing financial operations to disclose information concerning the bank accounts of the suspect or of persons who are reasonably believed to be involved in the financial transactions or affairs of the suspect, if such information could be used as evidence in the criminal proceedings.
(2) The preliminary proceedings judge may, on the motion of the prosecutor, order that other necessary measures referred to in Article 226 of this Code be taken in order to enable the detection and finding of the illicitly gained property and collection of evidence thereupon.
(3) In case of an emergency, any of the above mentioned measures may be ordered by the prosecutor on the basis of an order. The prosecutor shall immediately inform the preliminary proceedings judge who shall issue a court warrant within 72 hours. The prosecutor shall seal the obtained information until the issuance of the court warrant. In case the preliminary proceedings judge fails to issue the said warrant, the prosecutor shall be bound to return such information without having an access to it.
(4) The court may issue a decision ordering a legal or physical person to temporarily suspend a financial transaction that is suspected to be a criminal offense or intended for the commission of the criminal offense, or suspected to serve to conceal a criminal offense or conceal the proceeds of crime.
(5) The decision referred to in the previous Paragraph shall order that the financial resources designated for the transaction referred to in Paragraph 4 of this Article and cash amounts of domestic or foreign currency be temporarily seized pursuant to Article 129 Paragraph 1 of this Code and be deposited in a special account and kept until the end of the proceedings or until the conditions for their return are met.
(6) An appeal may be filed against the decision referred to in Paragraph 4 of this Article by the prosecutor, the owner of the cash in domestic or foreign currency, the suspect, the accused and the legal or physical person referred to in Paragraphs 4 and 5 of this Article.

Article 137

Temporary Seizure of Illicitly Gained Property

(1) At any time during the proceedings, the court may, upon the motion of the prosecutor, issue an interlocutory order for seizure, confiscation or arrest of illicitly gained property under the Criminal Code or shall issue other necessary interlocutory orders to prevent any use, transfer or disposal of such property.
(2) If a delay would be detrimental, an authorized official may temporarily seize property referred to in Paragraph 1 of this Article, may carry out an arrest in property or take other necessary temporary measures to prevent any use, transfer or disposal of such property. An authorized official shall immediately inform the prosecutor about the measures taken and the measures taken must be confirmed by

the preliminary proceedings judge within 72 hours following the undertaking of the measures.

(3) If the preliminary proceedings judge denies the approval, the measures taken shall be terminated and the objects or property seized returned immediately to the person from whom they have been seized.

Article 138

Return of the Seized Property

Objects that have been seized during the criminal proceedings shall be returned to the owner or possessor once it becomes evident during the proceedings that their retention runs contrary to Article 129 of this Code and that there are no reasons for their seizure (Article 402).

3. Procedure of Dealing With Suspicious Objects

Article 139

Posting and Publishing A Description of Suspicious Objects

(1) If another person's object is found with the suspect or the accused and it is not known to whom it belongs, the authorized body conducting the proceedings shall describe the object and post the description on the notice board of the municipality of the residence of the suspect or the accused and the municipality where the criminal offense has been committed. The notice shall invite the owner to come forward within one (1) year from the date of the posting; otherwise, the object will be sold. The proceeds from the sale shall be credited to the Republika Srpska Budget.

(2) If the object is of high value, a description may also be published in a daily newspaper.

(3) If the object is perishable or its safekeeping would entail significant costs, the object shall be sold pursuant to the provisions governing the judicial enforcement procedure and the proceeds shall be delivered for safekeeping to the court.

(4) The provision of Paragraph 3 of this Article shall also be applied when the object belongs to a runaway or an unknown perpetrator of a criminal offense.

Article 140

Decisions on Suspicious Objects

(1) If, within one (1) year, no one comes forward as the owner of the object or of the proceeds from the sale of the object, a decision shall be taken that the object shall become property of Republika Srpska or that the proceeds shall be credited to the Republika Srpska Budget.

(2) The owner of the object is entitled to claim the object or the proceeds from the sale of the object in a civil action. The time limit for exercising this right shall commence from the date of the posting or publication, as appropriate.

4. Questioning of the Suspect

Article 141

Summoning the Suspect

(1) The suspect under investigation shall be questioned by the prosecutor.

(2) The questioning of the suspect must be conducted with full respect for the personal integrity of the suspect. During questioning of the suspect it shall be forbidden to use force, threat, fraud, narcotics or other means that might affect the

freedom of decision-making and expression of will while giving a statement or confession.

(3) If actions were taken contrary to the provisions of this Article, the verdict of the court shall not be based on the statement of the suspect.

Article 142

Instructing the Suspect on His Rights

(1) At the first questioning the suspect shall be asked the following questions: his name and surname; nickname if he has one; name and surname of his parents; maiden name of his mother; place of birth; place of residence; date, month and year of birth; ethnicity and citizenship; identification number of Republika Srpska and Bosnia and Herzegovina citizen; profession; family situation; if he is literate; education; if he has served in the army, and if so, when and where; whether he has a rank of a reserve officer; whether he is entered in the military records and if yes, with which defence authority; whether he has received a medal; financial situation; previous convictions and, if any, reasons for the conviction; if convicted whether he served the sentence and when; if there are any pending proceedings for some other criminal offense; and if he is a minor, who is his legal representative. The suspect shall be instructed to obey summonses and to inform the authorized officials immediately about every change of address or intention to change his residence, and the suspect shall also be instructed about consequences if he does not act accordingly.

(2) At the beginning of the questioning, the suspect shall be informed of the charge against him, the grounds of the charge and he shall be informed of the following rights:
   a) the right not to give evidence or answer questions *(right to remain silent)*;
   b) the right to retain a defense attorney of his choice who may be present at questioning and the right to a defense attorney at no cost in such cases as provided by this Code;
   c) the right to comment on the charges against him, and to present all facts and evidence in his favor;
   d) that during the investigation, he is entitled to study files and view the collected items in his favor unless the files and items concerned are such that their disclosure would endanger the aim of investigation;
   e) the right to an interpreter at no cost if the suspect does not understand the language used in questioning.

(3) The suspect may voluntarily waive the rights stated in Paragraph 2 of this Article but his questioning may not commence unless his waiver has been recorded officially and signed by the suspect. To waive the right to a defense attorney shall not be possible for the suspect under any circumstances in case of a mandatory defense under this Code.

(4) In the case when the suspect has waived the right to a defense attorney, but later expressed his desire to retain one, the questioning shall be immediately suspended and shall resume when the suspect has retained or has been appointed a defense attorney, or if the suspect has expressed a wish to answer the questions.

(5) If the suspect has voluntarily waived the right to remain silent, he shall be allowed to present views on all facts and evidence in his favor.

(6) If any actions have been taken contrary to the provisions of this Article, the court’s verdict shall not be based on the statement of the suspect.

Article 143

Recording of Questioning of the Suspect

(1) A record shall be made each time a suspect is questioned. The important parts of the statement shall be entered in the record. After the record has been completed, the record shall be read to the suspect and the copy of it shall be given to him.
(2) As a general rule, a questioning of the suspect shall be electronically recorded under the following conditions:
   a) the suspect shall be informed in the language he speaks and shall understand that the questioning is being electronically recorded;
   b) if the questioning is adjourned, the reason and time of the adjournment shall be indicated in the record, as well as the time of resumption and the completion of the questioning;
   c) at the end of the questioning, the suspect shall be allowed to explain whatever he has said and to add whatever he wants;
   d) the recording thus made shall be transcribed as soon as feasible after the completion of the questioning, and a copy of the transcript shall be handed to the suspect along with a copy of the recording, or if a device for making several recordings simultaneously was used, he shall be handed one of the originals;
   e) once a copy of the original recording has been made for the purpose of making a transcript, the original recording or one of the originals shall be sealed in the presence of the suspect and authenticated by the respective signatures of the authorized official and the suspect.

Article 144

Questioning through an Interpreter

The suspect shall be questioned through an interpreter in cases referred to in Article 151 of this Code.

5. Examination of Witnesses

Article 145

Summons to Witnesses

(1) Witnesses shall be heard when there is likelihood that their statements may provide information concerning the offense, perpetrator or any other important circumstances.
(2) The prosecutor’s office or the court shall serve summons. Any summoning of a minor under 16 as witness shall be done through the parents or legal representative, except for the cases where this is not possible due to a need to act urgently, or other circumstances as the prosecutor or the court considers important.
(3) Witnesses who cannot answer a summons because of age, illness or serious physical handicap may be questioned at their residence, hospital or any other place.
(4) Witnesses shall be notified in the summons of their being summoned as a witness, of where and when to appear upon being summoned, as well as what consequences shall follow if the witness fails to appear.

(5) Should the witness fail to appear or to justify his absence the court may impose upon him a fine in an amount up to 5,000 KM, or may order the apprehension of the witness.
(6) The apprehension of a witness shall be performed by the Judicial Police. Exceptionally the order may be given by the prosecutor if a duly summoned witness does not appear or justify his absence, provided that this order must be confirmed by the preliminary proceedings judge within 24 hours following the issuance of the order.
(7) Should the witness refuse to testify, upon the proposal of the prosecutor, the court may issue a decision imposing on the witness a fine in an amount up to 5,000 KM. An appeal against this decision is allowed, but shall not stay the execution of the decision.
(8) Appeals against a decision imposing a fine shall be decided by the Panel (Article 24, Paragraph 5).

Article 146

Persons Who Shall Not Be Heard As Witnesses

The following persons shall not be heard as witnesses:
a) A person who by his statement would violate the duty of keeping state, military or official secrets until the competent body releases him from that duty;
b) A defense attorney of the suspect or accused with respect to the facts that became known to him in his capacity as a defense attorney;
c) A person who by his statement would violate the duty of keeping professional secrets (the priest - confessor, journalist for the purpose of protecting the information source, attorney-at-law, notary, physician, midwife and others), unless he was released from that duty by a special regulation or statement of the person who benefits from the secret being kept;
d) A minor who, in view of his age and mental development, is unable to comprehend the importance of his right not to testify.

Article 147

Persons Allowed to Refuse to Testify *(Privileged Witnesses)*

(1) The following persons may refuse to testify:
   a) the spouse or the cohabitee of the suspect or accused;
   b) any person who is a lineal relative of the suspect or accused, a relative in a collateral line to and including the third degree or an in-law up to and including the second degree;
(2) The authority conducting the proceedings shall caution the persons referred to in Paragraph 1 of this Article, prior to their examination or as soon as it learns about their relation to the accused, about the privilege. The caution and answer shall be entered in the record of proceedings.
(3) A person who has grounds for refusing to testify against one of the suspects or accused shall be relieved from the duty to testify against other co-defendants if his testimony, by its nature, cannot be restricted solely to the other suspects or accused.
(4) If a witness has been heard whose testimony is inadmissible or the person testifying has not been cautioned thereof or the caution has not been entered into records, the court decision shall not be based on such testimony.

Article 148

Right of Witness to Refuse to Respond *(Privilege Against Self-Incrimination)*

(1) The witness shall have the right to refuse to answer questions, which answered truthfully would result in that person being prosecuted.
(2) The witnesses exercising the right referred to in to Paragraph 1 of this Article shall answer the same questions provided that immunity is granted to such witnesses.
(3) Immunity may be granted by the decision of the prosecutor.
(4) The witness who has been granted immunity and is testifying as a result of the granted immunity shall not be prosecuted except in case of false testimony.
(5) A lawyer as the advisor may be assigned by the court's decision to the witness during the examination if it is obvious that the witness himself is not able to exercise his rights during the examination and if his interests cannot be protected in some other manner.

Article 149

Method of Examination, Confrontation and Identification

(1) Witnesses shall be examined individually and in the absence of other witnesses.
(2) At all times during the proceedings, witnesses may be confronted with other witnesses or with the suspect or accused.
(3) If necessary to ascertain whether the witness knows the person or object, first the witness shall be required to describe him/her/it or to indicate distinctive signs, and then a line-up of persons shall follow, or the object shall be shown to the witness, if possible among objects of the same type.

Article 150

Course of the Examination of a Witness

(1) The witness must answer orally.
(2) Before examination, the witness shall be called upon to tell the truth and not to withhold anything and then he shall be cautioned that giving false testimony is a criminal offense.
(3) Subsequently, the witness shall be asked the following questions: his name and surname, names of father and mother, occupation, residence, place and date of birth, and relation to the suspect, accused or injured party. The witness shall also be cautioned that it is his duty to inform the court regarding a change of address or residence.
(4) When examining a minor and, in particular if the minor was a victim of the criminal offense, the participants in the proceedings shall act with circumspection in order not to have an adverse effect on the minor's mental condition. If necessary, the minor shall be examined with assistance of a pedagogue or other professional.
(5) It is not allowed to ask the injured party about his/her sexual behavior prior to the commission of the criminal offense and if such a question has already been asked, the court verdict shall not be based on such statement.
(6) Given the age, physical and mental condition, or other justified reasons the witness may be examined using technical means for transferring image and sound in such manner as to permit the parties and the defense attorney to ask questions although not in the same room as the witness. An expert person may be assigned for the examination.

(7) After general questions the witness shall be invited to present everything that he knows about the case and then the witness shall be asked questions aimed at checking, supplementing and explaining his statement. When examining the witness, it is prohibited to practice deceit or ask leading questions.
(8) The witness shall be asked how he came to know the facts he is testifying about.
(9) Witnesses may be confronted if their testimony coflict with important facts. The confronted witnesses shall be examined individually about each circumstance that their testimony conflict and their answer shall be entered into records. Only two witnesses at a time may be confronted.
(10) The injured party being examined as witness shall be asked whether he wants to have his property claim determined in the criminal proceedings.

Article 151

Examination of a Witness through a Person Using the Sign Language

(1) If a witness is deaf or mute, he shall be examined through a person using the sign language.
(2) If the witness is deaf the questions shall be asked in writing and if he is mute he shall be asked to answer in writing. If the examination cannot be conducted in this manner then a person who can communicate with the witness shall be invited to be an interpreter.
(3) If the interpreter has not previously sworn, the interpreter shall take the oath that he shall literally communicate the questions to the witness as well as his testimony.

Article 152

Oath or Affirmation of a Witness

(1) If the requirements for examination have been met, the court may request the witness to take an oath or affirmation prior to testimony.
(2) Prior to the main trial, the witness may take the oath or affirmation only if there is a fear that due to illness or other reasons he shall not appear at the main trial. The oath or affirmation shall be taken before the judge or the presiding judge. The reason for taking the oath or affirmation shall be entered into the records.
(3) The text of the oath or affirmation is as follows: "I swear/ I affirm that I shall speak the truth about everything I am going to be asked before this court and that I shall withhold nothing known to me."
(4) The oath or affirmation shall be taken orally by reading its text or with a confirmation after the text of the oath or affirmation has been read by the judge or the presiding judge. Mute witnesses who can read and write shall take the oath or affirmation by signing the text of the oath or affirmation, whereas deaf or mute witnesses who cannot read or write shall take the oath or affirmation through a person using the sign language.
(5) The refusal and reasons for refusal of the witness to take an oath or affirmation shall be entered into records.

Article 153

Individuals Who Shall Not Take the Oath or Affirmation

The individuals who shall not take the oath or affirmation are persons who are minors at the time of examination, those for whom it has been proved that there is a grounded suspicion that they have committed or participated in commission of an offense for

which they are being examined or those who due to their mental condition are unable to comprehend the importance of the oath or affirmation.

Article 154

Recording of the Examination of Witnesses

The examination of witnesses may be recorded on audio-visual equipment at all stages in the proceedings. It shall be recorded in case of minors under sixteen (16) years of age who were injured parties, and if there are grounds for fearing that the witness cannot be examined at the main trial.

Article 155

***(Anonymous)* Protected Witness**

With respect to anonymous/protected witnesses in the proceedings before the court, the provisions of the special law shall be applied.

6. Crime Scene Investigation and Reconstruction of Events

Article 156

Conducting a Crime Scene Investigation

A crime scene investigation shall be conducted when a direct observation is needed to establish relevant facts in the proceedings.

Article 157

Reconstruction of Events

(1) In order to verify the evidence presented, or to establish facts that are important to clarify matters, the body in charge of the proceedings may order a reconstruction of the event. The reconstruction shall reproduce the actions or situations with the conditions under which the event occurred according to the evidence presented. If statements by individual witnesses or the suspects or the accused describing the actions or situations are inconsistent or contradictory, the reconstruction shall, as a general rule, reproduce each version of events.
(2) A reconstruction may not be performed in such a manner as to violate public peace and order or morality or endanger human life or health.
(3) Certain evidence may be examined again if necessary during the reconstruction.

Article 158

Aid of an Expert Witness or a Specialist

(1) A crime scene investigation or reconstruction shall be conducted with an aid of a criminal/forensic specialist or some other specialist who shall assist in finding, protecting and describing evidence, take certain measurements or photographs, or make sketches or photo-records or gather other data.
(2) An expert witness may also be invited to the crime scene investigation or reconstruction if his presence would be useful for opinions and findings.

7. Expert Evaluation

Article 159

Ordering Expert Evaluation

Expert evaluation shall be ordered when the findings and opinion of a person possessing the necessary special knowledge of the subject are required to establish or

evaluate some important facts. If scientific, technical or other special knowledge, skill or experience will assist the court in understanding the evidence or determining a factual issue, an expert as a special witness may testify by providing his findings on the facts and opinion that contains the evaluation of the facts.

Article 160

Order for Expert Evaluation

(1) Expert evaluation shall be requested in writing by the prosecutor or court. The request shall indicate the facts in respect of which the evaluation will be conducted.
(2) If there is a specialized institution for performing the particular kind of expert evaluation, or if the expert evaluation could be performed by a state body, such expert evaluation, especially if it is complicated, shall, as a general rule, be assigned to that institution or body. The institution or body shall appoint one or more specialists who will make the expert evaluation.

Article 161

Duties of the Expert Witness Appointed by the Prosecutor or the Court

The expert appointed by the prosecutor or court shall provide a report to the prosecutor or court that shall contain the evidence examined, the tests performed, the findings and opinion reached, and any other relevant information the expert considers necessary for a fair and objective analysis. The expert shall provide a detailed explanation of how he came to a particular opinion.

Article 162

Persons Who Cannot be Engaged as Experts

A person who may not testify as a witness (Article 146), who has been exempted from the duty to testify (Article 147), as well as the injured party, shall not be engaged as an expert. If nevertheless such person is engaged, the court shall not base its decision on his findings and opinion.
Grounds for disqualification of experts (Article 42) also exist when the expert is employed in the same agency or business enterprise or other private legal entity as the suspect, the accused or injured party, or when the expert is employed by the suspect, the accused or the injured party.
As a general rule, a person who has been questioned as a witness shall not be engaged as an expert.

Article 163

Expert Evaluation Procedure

(1) The body ordering expert evaluation shall manage the expert evaluation. Before commencement of the presentation of expert testimony the expert shall be invited to carefully study the subject of his testimony, and shall precisely present everything he knows and finds, and shall be invited to gove his opinion without bias and in conformity with the rules of his science or art. He shall be specifically warned that perjury is a criminal offense.
(2) An expert witness shall rely solely on evidence presented to him by authorized officials, the prosecutor or the court in forming opinions or inferences on the subject being examined. An expert witness may testify only as to facts found by his own consideration and determination, unless the information he is relying on

in forming his opinion and findings, is the type of information reasonably relied on by other experts in the same field.

(3) An expert may be given clarifications, and he may also be allowed to review the file. An expert may propose that evidence be presented or articles and data be obtained that are of relevance for the presentation of his findings and opinion. If he is present at a crime scene investigation, reconstruction, or other investigative proceeding, the expert may propose that certain circumstances be clarified or that certain questions be asked of the persons involved.

Article 164

Examination of Items

(1) The expert shall examine the items ordered to be examined at the place where the evidence is stored, unless the examination requires extended tests or if the tests are performed in institutions, or state bodies or if ethical considerations so require.

(2) If analysis of some substance must be performed for the purpose of expert evaluation, only a portion of the substance shall be made available to the expert, if this is possible, while the remainder shall be set aside in the necessary amount to allow for subsequent analysis.

Article 165

Presentation of Opinion and Findings

The expert witness shall deliver his findings and opinion as well as worksheets, drawings, and notes to the appointing authority.

Article 166

Expert Evaluation in a Specialized Institution or State Body

(1) If a specialized institution or a body is commissioned to make the expert evaluation, the court or the prosecutor shall caution the institution or the body conducting the evaluation that persons who provide the findings and opinion shall not be any person under Article 162 of this Code or a person for whom there are grounds for disqualification from expert evaluation as provided by this Code, and the court or the prosecutor shall warn them of the consequences of giving a false finding or opinion.

(2) The materials necessary for the expert evaluation shall be made available to the specialized institution or state agency; if necessary, the procedure described in the provision of Article 163 of this Code shall be followed.

(3) The specialized institution or state agency shall deliver a written finding and opinion by the persons who made the expert evaluation.

Article 167

Autopsy and Exhumation

(1) The examination and autopsy of the corpse shall be conducted if in a case of death there is suspicion that the death was not natural. If the corpse has already been buried, the exhumation of such corpse shall be ordered for the purpose of examination and autopsy.

(2) During the autopsy of a corpse, all the necessary actions for identification of a corpse shall be taken and to that end in particular the data on external and internal bodily characteristics of the corpse shall be described.

Article 168

Autopsy outside a Specialized Medical Facility

(1) Examination and autopsy of the body shall be performed by a specialized medical facility.
(2) If an expert evaluation is not made in a specialized medical facility, examination and autopsy of a corpse shall be conducted by a specialist in forensic medicine. The prosecutor shall direct that expert evaluation and shall record the findings and opinion of the expert.
(3) The physician who normally treated the deceased may not be given the task of performing the autopsy. However, the physician who treated the deceased may be questioned as a witness in order to provide an explanation on the course and the circumstances of the illness of the deceased.

Article 169

Forensic Report on Examination and Autopsy

(1) A forensic pathologist shall include in his report the cause and estimated time of death.
(2) Should any sort of injury be found on the corpse, it shall be ascertained whether that injury was caused by someone else, and if so, then with what instrument, in which manner, at what time before the death, and whether such injury is the cause of death. If several injuries have been found on the corpse, it shall be ascertained whether all of the injuries were inflicted with the same instrument and which injury caused death; if more than one injury could have been fatal, it shall be stated which one(s) were the cause of death.
(3) In cases referred to in Paragraph 2 of this Article, it shall specifically be ascertained whether the death was caused by the type of injury and general nature of the injury itself or due to personal characteristics or specific condition of the body of the deceased or by coincidence or circumstances under which the injury was inflicted.
(4) The expert shall pay attention to discovered biological material, including blood, saliva, semen, and urine, to describe it and preserve it for biological tests if ordered.

Article 170

Examination and Autopsy of a Fetus or an Infant

(1) In the examination and autopsy of a fetus, a specific determination shall be made as to the stage of pregnancy, the fetus' ability to live outside the uterus, and the cause of death.
(2) In an examination and autopsy of the corpse of an infant a specific determination shall be made as to whether the infant was born alive or stillborn, if it was capable to live, how long the infant lived, and the time and cause of death.

Article 171

Toxicological Tests

(1) If there is suspicion that a poisoning occurred, the suspicious substances found on the corpse or in another place shall be sent for expert evaluation to the institution or state body performing toxicological tests.
(2) When examining suspicious substances the expert shall specifically ascertain the type, amount and effects of the discovered toxic substances and, if the substances

taken from the body are being tested, if possible, the amount of that toxic substance.

Article 172

Expert Evaluation of Physical Injuries

(1) Expert evaluation of physical injuries shall be done as a general rule by examining the injured party. If it is not possible to examine the injured party or it is unnecessary, an expert evaluation shall be based on medical records or other available information.
(2) After providing a precise description of the injuries, the expert shall give his opinion, especially concerning the type and severity of each individual injury and their total effect in view of their nature or the specific circumstances of the case, the type of effect such injuries usually cause, the type of effect they have caused in this specific case, the instrument with which the injuries were inflicted and the manner of their infliction.

Article 173

Physical Examination of the Accused

(1) A physical examination of a suspect or the accused shall be performed, even without his consent, if necessary to determine the facts important for criminal proceedings. A physical examination of other persons may be performed without their consent only when it has to be established that a specific trace or other consequence of a criminal offense may be found on their body.
(2) Blood tests and other medical procedures may be done in accordance with the rules of medical science for analysis and determination of other facts important to criminal proceedings even without the consent of the person being examined, if it would not pose any harm to the health of person examined.
(3) A physical examination of the suspect or the accused shall be ordered by the court, and if a delay would be detrimental, then it shall be ordered by the prosecutor.
(4) It is prohibited to perform a medical intervention on the suspect, accused or witness or to administer to them agents that would affect their will in giving testimony.
(5) If actions are taken contrary to the provisions of this Article, the decision of the court shall not be based on the evidence obtained in this manner.

Article 174

Psychiatric Examination

(1) If a suspicion arises about diminished capacity or incapacity of the suspect or the accused, or that the suspect or the accused has committed a criminal offense due to drug or alcohol addiction, or that he is not able to participate in the proceedings due to the mental disturbance, expert evaluations consisting of examination of the accused by a psychiatrist shall be ordered.
(2) If during the investigation the suspect refuses to voluntarily undergo the psychiatric examination for the purpose of an expert witness evaluation or if according to the opinion of the expert witness an extended observation is required, the suspect shall be committed to the appropriate medical institution for the purpose of psychiatric examination. A decision to that effect shall be rendered by the preliminary proceedings judge on the motion of the prosecutor. The observation may not exceed two (2) months.

(3) Should experts establish that the mental condition of the suspect or accused is disturbed, they shall define the nature, type, degree and duration of the disorder and shall furnish their opinion concerning the type of influence this mental state has had and still has on the comprehension and actions of the accused as well as concerning whether and to what degree the disturbance of his mental state existed at the time when the criminal offense was committed.
(4) If a suspect or accused who is in pre-trial custody is sent to a medical institution, the judge shall inform that institution of the reasons why pre-trial custody was ordered so that the necessary steps can be taken to achieve the purposes of custody.
(5) The time, which a suspect or an accused spent in a medical institution, shall be included in the time of custody or credited against his sentence, should a sentence be pronounced.

Article 175

Audit of Business Books

(1) If an audit of business books is required, the body before which the proceedings are conducted shall indicate to the auditors the line of inquiry and the scope of the audit and other facts and circumstances that are to be determined.
(2) If the books of a business enterprise, other legal entity or an individual entrepreneur first need to be put in order before being audited, the costs of putting books in order shall be charged to their account.
(3) The decision to put books in order shall be made by the authority conducting proceedings on the basis of the written documented report of the experts ordered to audit the business books. The decision shall also indicate the amount that the legal entity or the individual entrepreneur must deposit with that authority as an advance against the cost of putting its books in order.
(4) The costs, if their amount has not been advanced, shall be collected and credited to the authority that has already paid the costs and remunerated the experts.

Article 176

DNA Analysis

DNA analysis may be made exclusively by an institution specialized in this type of expert evaluation.

Article 177

When to Make a DNA analysis

A DNA analysis may be performed insofar as it is required to establish identity or facts as to whether discovered trace substances originate from the suspect, the accused or the injured party.

Article 178

Use of DNA Analysis Results in Other Criminal Proceedings

For the purpose of establishing the identity of the suspect or the accused, cells may be taken from his body in order to perform a DNA analysis. All data obtained thereby may be used in other criminal proceedings against the same person.

Article 179

Registry of DNA Analyses and Data Protection

(1) All DNA analyses shall be kept in a special registry within the competent ministry in charge of health in Republika Srpska.
(2) Protection of data obtained from the analyses referred to in Paragraph 1 of this Article shall be regulated under a separate law.

CHAPTER XVI

MEASURES TO GUARANTEE THE PRESENCE OF A SUSPECT OR ACCUSED AND SUCCESSFUL CONDUCT OF CRIMINAL PROCEEDINGS

1. General Provisions

Article 180

Types of Measures

(1) Measures that may be taken against the accused in order to secure his presence and successful conduct of the criminal proceedings shall be: summons, apprehension, house arrest, bail and custody/detention.
(2) When deciding which of the above mentioned measures to take, the competent body shall meet certain requirements for application of the measures, attempting not to apply more severe measure if the same effect can be achieved by application of a less severe measure.
(3) These measures shall also be cancelled *ex officio* immediately after the reasons for their application cease to exist, or they shall be replaced with a less severe measure when the requirements for it are met.
(4) The provision of this Chapter shall be applied to the suspect as well, as appropriate.

2. Summons

Article 181

Service and Contents of Summons

(1) The presence of the suspect for the execution of a proceeding or an action in the criminal proceedings shall be ensured through the summons.
(2) A summons shall be served by delivering a sealed written summons containing the following: the name of the body issuing the summons, the first and last name of the accused, the criminal offense with which he is charged, the place where the accused is to appear, the date and hour when he is to appear, an indication that he is being summoned as accused, and a warning that he will be apprehended should he fail to appear, that he must immediately inform the prosecutor or the court of a change of the address and of the intention to change the residence, the official stamp, and the signature of the prosecutor or the judge issuing the summons.
(3) The first time an accused is summoned, he shall be instructed of his right to engage a defense attorney who may be present at his questioning.
(4) The first time a suspect is summoned, in the summons he shall be informed about his rights as specified in Article 142 of this Code. Before the issuance of the indictment, the suspect shall be summoned by the prosecutor.
(5) If the accused is unable to answer the summons because of illness or other impediment that cannot be removed, he shall be examined where he is or shall be

provided with transport to the courthouse or any other place where the proceedings are to be conducted.

3. Apprehension

Article 182

Arrest Warrant

(1) The court may issue an arrest warrant if the decision on detention has been issued or if the accused duly summoned has failed to appear without justification, or if the summons could not have been orderly served and the circumstances obviously indicate that the accused is evading service of summons.
(2) Exceptionally, in emergency cases, the warrant referred to in Paragraph 1 of this Article may be issued by the prosecutor if the duly summoned suspect has without justification failed to appear provided that this warrant shall be confirmed by the preliminary proceedings judge within 24 hours after issuance of the warrant.
(3) The arrest warrant shall be executed by the judicial police.
(4) The arrest warrant shall be given in writing. The arrest warrant shall contain: the name and last name of the accused who is to be apprehended, the criminal offense with which he is charged, the specific citation of the relevant criminal provisions, the grounds for ordering the person to be apprehended, the official stamp and the signature of the judge ordering the apprehension.
(5) The person authorized to execute the warrant shall hand over the warrant to the accused and instruct the accused to follow him. If the accused refuses, he shall be apprehended by force.

4. House Arrest

Article 183

Prohibitory Orders

(1) In a reasoned decision, the court may place the accused under house arrest if there are circumstances indicating that the accused might flee, hide or go to an unknown place or abroad.
(2) In addition to the prohibition referred to in Paragraph 1 of this Article the accused may be prohibited from visiting certain places or from meeting with certain persons or be ordered to report occasionally to a specified authority or his travel document or driver’s license may be temporarily confiscated. The accused may also be prohibited from performing certain business activities.
(3) The orders referred to in Paragraphs 1 and 2 of this Article may not restrict the right of the accused to communicate with his defense attorney.
(4) The accused shall be warned in the decision imposing the orders referred to in Paragraphs 1 and 2 of this Article that he may be ordered into custody if he violates the prohibitions imposed.
(5) In the course of an investigation, the orders referred to in Paragraph 1 and 2 of this Article shall be issued and revoked by the preliminary proceedings judge and after the issuance of an indictment – by a preliminary hearing judge and after the case has been referred to the judge or the Panel for the purpose of scheduling of the main trial – by that judge or the presiding judge.
(6) The orders referred to in Paragraphs 1 and 2 of this Article may last as long as they are needed, but no later than the date on which the verdict becomes finally

binding. The preliminary proceedings judge, preliminary hearing judge, the judge, or the presiding judge shall review the prohibitory order every two (2) months.

(7) A decision giving, extending or revoking the orders referred to in Paragraphs 1 and 2 of this Article may be appealed by the parties and the defense attorney, while the prosecutor may also appeal a decision rejecting his motion for the prohibitory order. An appeal shall be decided by the Panel referred to in Article 24, Paragraph 5 of this Code within three (3) days following the receipt of the appeal. An appeal shall not stay the execution of the decision.

5. Bail

Article 184

Bail Conditions

The accused, who is to be placed in custody or has already been placed in custody only due to the risk that he will flee, may be allowed to remain at liberty or may be released if he personally gives a recognizance or someone else on his behalf furnishes a surety that he will not flee before the end of the criminal proceedings and the accused himself pledges that he will not conceal himself and will not leave his residence without permission.

Article 185

The Contents of Bail

(1) Bail shall always be set at an amount of money that is determined on the basis of the seriousness of the criminal offense, the personal and family circumstances of the accused, and the financial situation of the person posting bail.

(2) Bail consists of depositing money, securities, valuables or other personal property of a large value that is easily marketable and easily maintained, or of placing a mortgage for the amount of bail on real estate of the person posting bail, or of a personal recognizance of one or more individuals that they will pay the amount of bail that has been set should the accused flee.

(3) A person posting a bail shall submit evidence on his financial resources, origin of the property and ownership of the property or possession of the property posted as surety.

(4) If the accused flees, a decision shall be issued ordering that the amount posted as bail shall be credited to the Budget of Republika Srpska.

Article 186

Revocation of Bail

(1) Notwithstanding the bail posted, the accused shall be placed in custody if without justification he fails to appear when duly summoned, if he is preparing to flee or if there occurs another legal ground for his custody after he has been released.

(2) In a case referred to in Paragraph 1 of this Article, the bail shall be revoked. The money, valuables, securities or other personal property deposited shall be returned, and the mortgage shall be removed. The same procedure shall be followed when the criminal proceedings conclude with a finally binding decision to dismiss proceedings or with a verdict.

(3) If a prison sentence is pronounced in the verdict, the bail shall be revoked only when the convicted person begins to serve the sentence.

Article 187

Decision on Bail

In the course of an investigation, a decision on bail and the revocation of the bail shall be issued by the preliminary proceedings judge and after the issuance of an indictment – by a preliminary hearing judge and after the case has been submitted to the judge or the Panel for the purpose of scheduling the main trial – by that judge or the presiding judge. A decision setting the bail and a decision revoking the bail shall be taken following the hearing of the prosecutor.

6. Pre-trial Detention

Article 188

Ordering Pre-trial Custody

(1) Custody may be ordered only under the conditions prescribed by this Code and only if the same purpose cannot be achieved by another measure.
(2) The duration of custody must be reduced to the shortest necessary time. It is the duty of all bodies participating in criminal proceedings and of agencies extending them legal assistence to proceed with particular urgency if the suspect or the accused is in custody.
(3) Throughout the proceedings, custody shall be terminated as soon as the grounds for which it was ordered cease to exist, and the person in custody shall be released immediately.

Article 189

Grounds for Pre-trial Custody

(1) If there is a grounded suspicion that a person has committed a criminal offense, custody may be ordered against him:
    a) if he hides or if other circumstances exist that suggest a possibility of flight;
    b) if there is a justified fear to believe that he will destroy, conceal, alter or falsify evidence or clues important to the criminal proceedings or if particular circumstances indicate that he will hinder the inquiry by influencing witnesses, accessories or accomplices;
    c) if particular circumstances justify a fear that he will repeat the criminal offense or complete the criminal offense or commit a threatened criminal offense, and for such criminal offenses a prison sentence of five (5) years may be pronounced or more;
    d) if the criminal offense is punishable by a sentence of imprisonment of ten (10) years or more, where the manner of commission or the consequence of the criminal offense requires that custody be ordered for the reason of public or property security. If the criminal offense concerned is the criminal offense of terrorism, it shall be considered that there is rebuttable presumption that the safety of public and property is threatened.
(2) In a case of Item b), Paragraph 1 of this Article, custody shall be cancelled once the evidence for which the custody was ordered has been secured.

Article 190

Citizen's Arrest

A private person caught committing a criminal offense may be arrested by another private person. The person who is so arrested shall be immediately turned over to the

court, prosecutor or to the nearest police authority, and if this may not be done, the court, prosecutor or the police must be notified about it immediately.

Article 191

Competence for Ordering Custody

(1) Custody shall be ordered by a decision of the court and on the motion of the prosecutor.
(2) A decision on custody shall contain: the first and last name of the person being taken into custody, the criminal offense with which he is charged, the legal basis for custody, explanation, instruction as to the right of appeal, the official seal and the signature of the judge ordering custody.
(3) A decision on custody shall be delivered to the pertinent person at the moment of deprivation of liberty. The files must indicate the hour of the delivery of the decision.
(4) The person taken into custody may file an appeal against the decision on custody with the Panel (Article 24, Paragraph 5) within 24 hours of the receipt of the decision. If the person taken into custody is questioned for the first time after the expiration of this period, he may file an appeal during the questioning. The appeal with a copy of the record of questioning, if the person in custody has been questioned, and the decision on custody shall be submitted immediately to the Panel. An appeal shall not stay the execution of the decision.
(5) If the preliminary proceedings judge or preliminary hearing judge does not accept the motion of the prosecutor to order custody, he shall request that the Panel decide the issue (Article 24, Paragraph 5). Against the decision of the Panel ordering custody, the person taken into custody may file an appeal, which does not stay the execution of the decision. With respect to the delivery of the decision and filing of an appeal, the provisions of Paragraphs 3 and 4 of this Article shall apply.
(6) In cases referred to in Paragraphs 4 and 5 of this Article, the Panel deciding the appeal shall take a decision within 48 hours.

Article 192

Duration of Investigative Custody

(1) Before taking a decision ordering custody, the preliminary proceedings judge shall review whether there are grounds for a motion to order custody. Upon the decision of the preliminary proceedings judge, custody may last no longer than one (1) month following the date of deprivation of liberty. After that period, the suspect may be kept in custody only on the basis of a decision extending the custody.
(2) Custody may be extended, upon a decision of the Panel (Article 24, Paragraph 5), following a substantiated motion of the prosecutor, for no longer than two (2) months. An appeal against the decision of the Panel shall be allowed and it does not stay the execution of the decision.
(3) If the proceedings are ongoing for the criminal offense for which a prison sentence of ten (10) years may be pronounced or more, and if there are particularly important reasons, custody may be extended following a substantiated motion of the prosecutor, for no longer than three (3) months by the Supreme Court of Republika Srpska. An appeal against the decision shall be allowed and it shall be decided by a different panel of the Supreme Court. An appeal does not stay the execution of the decision.

(4) If, before the expiration of the periods referred to in Paragraph 1 through 3 of this Article, an indictment has not been brought for confirmation, the suspect shall be released.

Article 193

Termination of Custody

(1) In the course of the investigation and before the expiration of the custody, the preliminary proceedings judge may terminate custody by the decision after the prosecutor is heard. The prosecutor may file an appeal against the decision to the Panel referred to in Article 24 Paragraph 5. The Panel shall reach a decision within 48 hours.
(2) No appeal is allowed against the decision rejecting the motion for termination of the custody.

Article 194

Custody after the Confirmation of the Indictment

(1) After the confirmation of indictment, custody may be ordered, extended or terminated. The review of justification of the custody shall be carried out upon the expiration of each two (2) month period following the date of issuance of the most recent decision on custody. The appeal against this decision shall not stay its execution.
(2) After the confirmation of indictment, custody may last no longer than one (1) year. If, during that period, no first instance verdict is pronounced, the custody shall be terminated and the accused released.
(3) After pronouncing the first instance verdict, custody may last for no longer than another six (6) months. If during that time no second instance verdict is pronounced reversing or confirming the first instance verdict, custody shall be terminated and the accused released. If within six (6) months a second instance verdict is pronounced reversing the first instance verdict, the custody shall last for no longer than another year after pronouncement of the second instance verdict.
(4) In any event, custody shall be terminated upon the expiration of the term of sentence pronounced.

Article 195

Ordering Custody after the Verdict is Pronounced

(1) When the court pronounces a sentence of imprisonment against an accused, the court shall order custody against the accused or the custody shall be extended if there exist the grounds referred to in Article 189, Paragraph 1, Items a), c) and d) of this Code. The custody shall be terminated if the grounds for which the custody was pronounced do not exist any more. In this case, a separate decision shall be issued, and appeal against such decision shall not stay its execution.
(2) Custody shall be terminated and release of the accused ordered if he has been acquitted or if the charges against him have been rejected or he has been found guilty but released from penalty or he has only been fined or received a suspended sentence or, due to crediting the custody time, he has already served the sentence.
(3) Custody ordered or extended pursuant to provisions of Paragraph 1 of this Article may last until a finally binding verdict but no later than the expiration of the period of sentence pronounced in the first instance.
(4) At the request of the accused, who is in custody after a sentence of imprisonment has been pronounced on him, a judge or the presiding judge may issue a decision

to send the accused to a penitentiary institution to serve the sentence even before the verdict becomes finally binding.

Article 196

Deprivation of Liberty and Police Detention

(1) Police may deprive a person of liberty if there are grounds for suspicion that he committed a criminal offense and if there are any of the reasons as referred to in Article 189 of this Code, but they must immediately, but no later than 24 hours, bring that person before the prosecutor. In apprehending the person concerned, the police authority shall notify the prosecutor of the reasons for and time of the deprivation of liberty. Use of reasonable force is allowed when apprehending the person.
(2) A person deprived of liberty must be instructed in accordance with Article 5 of this Code.
(3) If a person deprived of liberty is not brought before the prosecutor within the period as specified in Paragraph 1 of this Article, he shall be released.
(4) The prosecutor is obliged to question the apprehended person without delay, and no later than 24 hours. The prosecutor shall decide within that time whether he will release the apprehended person or file the request for custody of the person in question to the preliminary proceedings judge. The preliminary proceedings judge shall immediately, and no later than 24 hours, issue a decision on custody or on releasing of the apprehended person.
(5) If the preliminary proceedings judge overrules the proposal for the custody, he shall act in accordance with Paragraph 5 of Article 191 of this Code.

7. Execution of Custody and Treatment of Persons Taken into Custody

Article 197

General Provisions

Custody shall be executed in the institutions so designated by law.

Article 198

The Rights and Freedoms of Persons Taken into Custody and Data on Them

(1) Custody must be executed in such a manner as not to offend the personal integrity and dignity of the accused. In executing custody, authorized officials of the Judicial Police and guards of the institution may use means of force only in cases prescribed by law.
(2) The rights and freedoms of the person taken into custody may be restricted only insofar as it is necessary to achieve the purpose for which custody has been ordered and to prevent the flight of the person taken into custody, commission of a criminal offense or endangerment to the life and health of people.
(3) The administration of the institution shall collect, process and store data on the person taken into custody, including data concerning the identity of the person in custody and his psycho-physical condition, the duration, extension and termination of his custody, the work performed by the person in custody, and his behavior and disciplinary measures applied.

(4) Custody records concerning detainees shall be kept by the RS Ministry of Justice.

Article 199

Accommodation of Persons in Custody

Persons in custody shall be accommodated in rooms of appropriate sizes that satisfy required health conditions. Individuals of different sexes may not be accommodated in the same room. As a general rule, persons in custody shall not be put in the same room with persons serving a sentence. A person taken into custody shall not be accommodated together with persons who might have an adverse influence on him or with persons whose company might have adverse influence on the conduct of the proceedings.

Article 200

Special Rights of Persons Taken into Custody

(1) Persons in custody have the right to eight (8) hours of uninterrupted rest within each 24-hour period. In addition, they shall be guaranteed at least two (2) hours of walking in the open air daily.
(2) A person in custody shall be allowed to have personal belongings and hygienic items in his possession, and shall also be allowed to procure at his own expense books, newspapers and other printed media. A detainee shall also be allowed to keep other objects in such a quantity and size so as not to disturb the living environment in the room and the internal regulations of the detention facility. When a person is admitted to custody, objects related to the criminal offense shall be seized from him during the search of his person, and any other objects that the detainee is not allowed to have in his possession while in custody shall be put aside and stored according to his instruction or delivered to a person designated by him.

Article 201

Right to Communication of Persons in Custody with the Outside World and Defense Attorneys

(1) Upon the approval of the preliminary proceedings judge or the preliminary hearing judge and under his supervision or the supervision of a person designated by him, the detainee may receive visits from his spouse or cohabitee or relatives, and at his request, from a physician and other persons subject to internal regulations of the custody. Certain visits may be prohibited if they could detrimentally affect the conduct of the proceedings.
(2) The preliminary proceedings judge or the preliminary hearing judge shall allow a consular official of a foreign country to visit the person in custody who is a citizen of that country, subject to the internal regulations of the detention facility.
(3) A detainee may correspond with persons not in custody with the knowledge and under supervision of the preliminary proceedings judge, the preliminary hearing judge, the judge or the presiding judge. A detainee may be prohibited from sending and receiving letters and other mail, but not from sending a motion, complaint or appeal.
(4) A detainee shall be prohibited from using a cellular phone but shall have the right, subject to internal regulations of the detention facility, to make telephone calls at his own expense. To that end, the detention facility administration shall provide the detainees with a sufficient number of public telephone connections. The preliminary proceedings judge, the preliminary hearing judge, the single trial

judge or the presiding judge may, for reasons of security or due to the existence of one of the reasons referred to in Article 189 Paragraph 1 Item a) through c), of this Code restrict or prohibit, by a decision, the use of the telephone by a detainee.

(5) A detainee shall be entitled to free and unrestricted communications with his defense attorney.

Article 202

Disciplinary Violations by Detainees

(1) The preliminary proceedings judge, the preliminary hearing judge, the single trial judge or the presiding judge may, at the proposal of the manager of the institution, impose a disciplinary penalty of restriction of visits and correspondence for a disciplinary violation by a detainee. This restriction shall not apply to the communications of the detainee with the defense attorney or contacts with a consular official.

(2) A disciplinary violation includes any serious violation pertaining to:
   a) physical attack on other detainees, employees or authorized persons, or insult of these persons;
   b) making, receiving, importing or smuggling objects for attack or escape;
   c) bringing into the institution or preparation in the institution of a narcotic substance or alcohol;
   d) breach of rules on safety at work, fire protection and prevention of consequences of natural disasters;
   e) intentional causing of serious material damage;
   f) indecent behavior in front of other detainees or authorized persons.

(3) Within 24 hours, an appeal with the panel referred to in Article 25, Paragraph 6 shall be allowed against a decision imposing a disciplinary measure. An appeal shall not stay the execution of the decision.

(4) The administration of the detention facility shall immediately notify the court of the application of disciplinary measures to the detainee.

Article 203

Supervision of the Execution of Custody

(1) Supervision over the execution of custody shall be carried out by the president of the court.

(2) The president of the court or a judge designated by him shall be obliged to visit detainees at least once in 15 days, and if he considers necessary, shall inquire, without the presence of the Judicial Police, regarding how the detainees are fed, how other needs are satisfied and how detainees are treated. The president of the court or a judge designated by him shall be obliged to take necessary measures to remedy irregularities noticed during the visit to the detention facility. The president of the court may not delegate supervision over the execution of custody to the preliminary proceedings judge or the preliminary hearing judge.

(3) Notwithstanding the supervision referred to in Paragraph 2 of this article, the president of the court, the preliminary proceedings judge, the preliminary hearing judge, the single trial judge or the presiding judge may visit the detainees at all times, may talk to them and may hear their complaints.

Article 204

Detention Book of Rules

The RS Minister of Justice shall issue the detention book of rules which shall regulate in detail the execution of custody in accordance with the provisions of this Code.

CHAPTER XVII

MISCELLANEOUS PROVISIONS

Article 205

Approval to Prosecute

When the law states that prior approval of the competent governmental body is required for prosecution of certain criminal offences, the prosecutor shall not conduct an investigation nor shall he bring charges without submitting evidence that the approval has been granted.

Article 206

Special Cases of Prosecution

(1) In the event that a criminal offense was committed outside the territory of Republika Srpska, the prosecution may be initiated by the prosecutor, provided that this criminal offense is criminalized in the law of Republika Srpska.
(2) In the event referred to in Paragraph 1 of this Article the prosecutor shall undertake the criminal prosecution only if the offense committed is defined as the criminal offense under the laws of the country in whose territory the criminal offense was committed. The prosecution shall not be undertaken in that event either, if under the laws of that country the prosecution is to be undertaken only upon the request of the injured party, whereas no such request has been filed by the injured party.
(3) Notwithstanding the laws of the country where the criminal offense was committed, the prosecutor may undertake the prosecution if such an act is a criminal offense under the international law.

Article 207

Discontinuance of the Proceedings if the Suspect or Accused Dies

When, during the criminal proceedings, it is established that the suspect or accused has died the proceedings shall be discontinued.

Article 208

Procedure in Case of Mental Incapacity of the Suspect or the Accused

If in the course of the proceedings it is established that the suspect or the accused lacked mental capacity at the time of committing the criminal offense, the court shall render an appropriate decision in accordance with Article 400 of this Code. If the suspect or the accused is in custody or in a psychiatric institution he shall not be released but instead the court shall issue a decision on temporary detention of the suspect or the accused up to a maximum of 30 days following the day of issuance.

Article 209

Mental Disorder Suffered by the Suspect or Accused in the Course of the Proceedings

If in the course of criminal proceedings it is ascertained that after the criminal offense was committed the accused has become mentally ill, a decision shall be issued to the effect suspending criminal proceedings. (Article 399)

Article 210

Fines in Case of Prolonging Criminal Proceedings

(1) In the course of proceedings, the court may impose a fine in an amount up to 5,000 KM upon the prosecutor, defense attorney, attorney-in-fact or legal representative and an injured party if the actions of the prosecutor, defense attorney, or attorney-in-fact or legal representative or the injured party are obviously aimed at prolonging the criminal proceedings.
(2) The High Judicial and Prosecutorial Council of RS shall be informed of the fining of the prosecutor, and the Bar Association shall be informed of the fining of the defense attorney.

Article 211

Application of the International Law

1) The rules of international law shall apply with respect to exemption from criminal prosecution of aliens who enjoy the immunity in Bosnia and Herzegovina.
2) Should there be any doubt as to the identity of persons referred to in Paragraph 1 of this Article, the court shall seek clarification from the Ministry of Justice of Republika Srpska.

Article 212

Temporary Confiscation of Driving Licence

1) If criminal proceedings involves traffic related criminal offense; the court may confiscate the driving licence from the suspect or accused during the criminal proceedings.
2) In urgent cases the prosecutor may order the action under Paragraph 1 and shall inform about it the preliminary proceedings judge who may decide within 72 hours to issue the decision on temporary confiscate the driving licence. In the event that the preliminary proceedings judge does not decide to issue the decision on temporary taking away the driving licence, the prosecutor shall give it back to the suspect or accused.
3) The driving licence shall be given back to the suspect or accused even before the criminal proceedings conclude if it has been established justifiably that the reasons for taking it away has ceased from existing.
4) An appeal is allowed against decisions under Paragraphs 1 and 2 but it shall not stay the execution.

The period of time in which the driving licence was confiscated from the suspect or accused while not in custody shall be counted in the term of revocation ordered in the finally binding verdict.

PART TWO

COURSE OF THE PROCEEDINGS

CHAPTER XVIII

INVESTIGATIVE PROCEDURE

Article 213

Obligation to Report the Criminal Offense

(1) Official and responsible persons in all the governmental bodies in Republika Srpska, public companies and public institutions shall be bound to report criminal offenses of which they have knowledge, through information provided to them or learned by them in some other manner. Under such circumstances, the official and responsible person shall take steps to preserve traces of the criminal offense, objects upon which or with which the criminal offense was committed, and other evidence, and shall notify an authorized official or the prosecutor's office without delay.
(2) Medical workers, teachers, pedagogues, parents, foster parents, adoptive parents and other persons authorized or obliged to provide protection and assistance to minors, to supervise, educate and raise the minors, are obliged to immediately inform the authorized official or the prosecutor about their suspicion that the minor is the victim of sexual, physical or any other form of abuse.

Article 214

Citizens Reporting a Criminal Offense

(1) A citizen is entitled to report a criminal offense.
(2) All persons shall report commission of a criminal offense in those instances where failure to report such a criminal offense itself constitutes a criminal offense.

Article 215

Filing a Report

(1) The report shall be filed with the prosecutor in writing or orally.
(2) If a person files an oral report concerning a criminal offense, such person shall be warned of the consequences of providing a false report. The record shall be taken concerning oral report and if the report is communicated by telephone, an official note shall be made.
(3) If the report is filed with the court or authorized official, they shall accept the report and shall immediately submit the report to the prosecutor.

Article 216

Order for Conducting an Investigation

(1) The prosecutor shall order the conduct of an investigation if grounds for suspicion that a criminal offense has been committed exist.
(2) The order on conducting the investigation shall contain: data on perpetrator if known, descriptions of the act pointing out the legal elements which make it a crime, the legal title of the criminal offense, circumstances that confirm the grounds for suspicion for conducting an investigation and existing evidence. The prosecutor shall list chronological order of circumstances to be investigated and investigative actions to be undertaken.

(3) The prosecutor shall not order the investigation if it is evident from the report and supporting documents that a reported act is not a criminal offense, if there are no grounds to suspect that the reported person committed the criminal offense, if the statute of limitations is applicable or if the criminal offense is a subject to amnesty or pardon or if any other circumstances exist that preclude criminal prosecution.
(4) The prosecutor shall inform the injured party and the person who reported the offense within three (3) days of the fact that the investigation shall not be conducted, as well as the reasons for not doing so. The injured party and the person who reported the offense have the right to file a complaint with the prosecutor's office within eight (8) days.

Article 217

Conducting an Investigation

(1) In the course of investigation, the prosecutor may undertake all investigative actions, including the questioning of the suspect and hearing of the injured party and witnesses, crime scene investigation and reconstruction of events, undertaking special measures to protect witnesses and information and may order the necessary expert evaluation.
(2) The record on the undertaken investigative actions shall be made in accordance with this Code.

Article 218

Prosecutor Supervising the Work of the Authorized Officials

(1) If there are grounds for suspicion that a criminal offense has been committed punishable by a prison sentence of more than five (5) years, an authorized official shall immediately inform the prosecutor and shall under the prosecutor's direction take the steps necessary to locate the perpetrator, to prevent the suspect or accomplice from hiding or fleeing, to detect and secure the clues to the criminal offense and objects which might serve as evidence, and to gather all information that might be of use for the criminal proceedings.
(2) If there are grounds for suspicion that the criminal offense referred to in Paragraph 1 of this Article has been committed, and the delay would be detrimental, an authorized official is obliged to carry out necessary actions in order to fulfil the tasks referred to in Paragraph 1 of this Article. When carrying out these actions, the authorized official is obliged to act in accordance with this Code. The authorized official is bound to inform the prosecutor on all taken actions immediately and deliver the collected items that may serve as evidence.
(3) If there are grounds for suspicion that a criminal offense has been committed punishable by a prison sentence of up to five (5) years, an authorized official shall inform the prosecutor of all available information and investigative actions performed no later than seven (7) days after finding out there are grounds for suspicion that a criminal offense has been committed.
(4) In cases referred to in Paragraphs 1 through 3 of this Article, the prosecutor shall issue an order on conducting the investigation if he considers it necessary.

Article 219

Taking Statements and Collection of Information

(1) In order to perform the tasks referred to in Article 216 of this Code, authorized officials may obtain the necessary information from persons; may make a necessary examination of vehicles, passengers and luggage; may restrict

movement in a specified area during the time required to complete a certain action; may take the necessary steps to establish identity of persons and objects; may organize search to locate an individual or items being sought; may in the presence of a responsible individual search specified structures and premises of state authorities, public enterprises and institutions, examine specified documents belonging to state authorities or public enterprises or institutions, and take other necessary steps and actions. A record or official notes shall be kept of facts and circumstances ascertained in the taking of various actions and also concerning items which have been found or seized.

(2) In gathering information from persons, an authorized official may issue a written request to a person to appear at the police station, provided that the request designates the reasons for requesting the person's appearance. A person is not obliged to give a statement or respond to any question asked by the authorized official, other than to give his own personal data. The authorized official shall inform the person about this right.

(3) In gathering information from persons, the authorized official shall act in accordance with Article 142 of this Code or in accordance with Article 150 of this Code. In that case, the records on gathered information may be used as evidence in the criminal proceedings.

(4) A person against whom any of the actions or actions referred to in this Article have been taken shall be entitled to file a complaint with the prosecutor's office within a period of three (3) days. The prosecutor shall verify the grounds of the allegations and if it is determined that the committed acts or actions constitute a criminal offense or misconduct in office, the complaint shall be processed in accordance with the law.

(5) The authorized official shall complete a criminal report based on the information and evidence gathered. The criminal report shall be submitted along with physical articles, sketches, photographs, reports obtained, records of the measures and actions taken, official notes, statements taken and other materials, which could contribute to the effective conduct of proceedings, including all facts or evidence in favor of the suspect. If the authorized official learns of new facts, evidence or clues to the criminal offense after submitting the criminal report, he shall have a continuing duty to gather the necessary information and shall immediately submit a supplemental report to the prosecutor.

(6) The prosecutor may gather information from persons in custody if this is necessary to detect other criminal offenses committed by the same person or his accomplices, or criminal offenses of other suspects.

Article 220

Restriction of Movement at the Scene of the Crime

(1) An authorized official has the right to restrict the movement and question persons found at the scene of a crime, if such persons could provide information important for the criminal proceedings. The authorized official shall be bound to inform the prosecutor about the restriction of movement and questioning. Restriction of movement of such persons at the scene of a crime may not last more than six (6) hours.

(2) An authorized official may photograph a person and take his fingerprints if there are grounds for suspicion that he has committed a criminal offense. When it will contribute to the effective conduct of proceedings, an authorized official may

release the photograph of that person for general publication, but only with the approval of the prosecutor.

(3) If necessary to establish whose fingerprints are found on certain objects, the authorized official may take fingerprints from persons who have possibly touched those objects.

(4) A person against whom any of the actions referred to in this Article have been taken shall be entitled to file a complaint with the prosecutor.

Article 221

Investigation of the Crime Scene and Expert Evaluation

An authorized official, upon notifying the prosecutor, shall proceed with the investigation of the crime scene and order the necessary expert evaluations, with the exception of an autopsy and the exhumation of a corpse. If the prosecutor is present at the crime scene while it is being investigated by authorized officials, he may direct authorized officials to perform certain actions that the prosecutor considers necessary. All actions undertaken at the crime scene must be documented and elaborated in detail in both a record and a separate official report.

Article 222

Autopsy and Exhumation

If there is a suspicion or if it is evident that a death was caused by criminal offense or that it is related to the commission of a criminal offense the prosecutor shall order the performance of an autopsy. If the corpse has already been buried, an exhumation of the corpse shall be ordered for the purpose of an examination and autopsy through a warrant that the prosecutor shall request from the court.

Article 223

Preservation of Evidence by the Court

(1) Whenever it is in the interest of the administration of justice that the witness's testimony be taken in order to use it at the main trial because the witness may be unavailable to the court during the trial, the preliminary proceedings judge may, upon the request of the parties or the defense attorney, order that the testimony of the witness in question be taken at a special hearing (deposition). The deposition shall be conducted in accordance with Article 269 of this Code.

(2) Prior to use of the deposition referred to in Paragraph 1 of this Article, the party or the defense attorney requesting for the deposition to be considered as evidence at the main trial, must prove that despite all efforts to secure the witness's presence at the main trial, the witness remains unavailable. The deposition in question may not be used if the witness is present at the main trial.

(3) If the parties or the defense attorney are of the opinion that a certain evidence may disappear or that the presentation of such evidence at the main trial may not be possible, the parties or the defense attorney shall move the preliminary proceedings judge for taking necessary actions aimed at the preservation of evidence. If the preliminary proceedings judge accepts the motion for presentation and examination of evidence, he shall inform the parties and defense attorney accordingly.

(4) If the preliminary proceedings judge rejects the motion referred to in Paragraphs 1 and 3 of this Article, he shall issue a decision that can be appealed against to the Panel referred to in Paragraph 5 of Article 24 of this Code.

Article 224

Cessation of Investigation

(1) The prosecutor shall order the investigation of a suspect to cease if it is established:
   a) the act committed by the suspect is not a criminal offense;
   b) there is insufficient evidence that the suspect committed a criminal offense;
   c) that the act is covered by amnesty, pardon or statute of limitations or if there are some other obstacles that preclude prosecution.
(2) The prosecutor shall inform the injured party, who has the rights prescribed by the Article 207, Paragraph 4 of this Code, on cessation of the investigation.
(3) The prosecutor may, in the cases stated in Item b) of Paragraph 1 of this Article, at a later date reopen the investigation if additional information is obtained and such information provide sufficient reasons to believe that the suspect committed a criminal offense.

Article 225

Completion of Investigation

(1) The prosecutor shall order a completion of investigation after he concludes that the circumstances are sufficiently clarified to bring charges. Completion of the investigation shall be noted in the file.
(2) Prior to the completion of the investigation, the prosecutor shall question the suspect if this has not been done previously.
(3) If the investigation has not been completed within six (6) months after the order on its conducting has been issued, the Collegium of the prosecutor's office shall undertake necessary measures in order to complete the investigation.

CHAPTER XIX

SPECIAL INVESTIGATIVE ACTIONS

Article 226

Types of Special Investigative Actions and Conditions of Their Application

(1) If evidence cannot be obtained in another way or its obtaining would be accompanied by disproportional difficulties, special investigative actions may be ordered against a person against whom there are grounds for suspicion that he has committed or has along with other persons taken part in committing or is participating in the commission of an offense referred to in Article 227 of this Code.
(2) The investigative actions under Paragraph 1 of this Article are as follows:
   a) surveillance and technical recording of telecommunications;
   b) access to the computer systems and computerized data processing;
   c) surveillance and technical recording of premises;
   d) covert following and technical recording of individuals and objects;
   e) use of undercover investigators and informants;
   f) simulated purchase of certain objects and simulated bribery;
   g) supervised transport and delivery of objects of criminal offense.
(3) The investigative actions referred to in Item a) of Paragraph 2 of this Article may also be ordered against persons against whom there are grounds for suspicion that he will deliver to the perpetrator or will receive from the perpetrator of the offenses referred to in Article 120 of this Code information in relation to the

offenses, or grounds for suspicion that the perpetrator uses a telecommunication device belonging to those persons.

(4) Provisions regarding the communication between the suspect and his or her defense attorney shall apply accordingly to the discourse between the person referred to in Paragraph 1 of this Article and his or her defense attorney.

(5) In executing the actions referred to in Items e) and f) of Paragraph 2 of this Article police authorities or other persons shall not undertake activities that constitute an incitement to commit a criminal offense. If nevertheless such activities are undertaken, this shall be an instance precluding the criminal prosecution against the incited person for a criminal offense committed in relation to those actions.

Article 227

Criminal Offenses as to Which Special Investigative Actions May Be Ordered

The investigative actions referred to in Paragraph 2 of Article 219 of this Code may be ordered for following criminal offenses:

a) criminal offenses against Republika Srpska ;
b) criminal offenses against humanity and in violation of international law;
c) criminal offenses of terrorism;
d) criminal offenses for which, pursuant to the law, a prison sentence of minimum of three (3) years or more may be pronounced.

Article 228

Competence to Order the Actions and the Duration of the Actions

(1) The investigative actions referred to in Article 226 Paragraph 2 of this Code shall be ordered in an order issued by the preliminary proceedings judge upon the properly reasoned motion of the prosecutor containing: the data on the person against whom the action is to be applied, the grounds for suspicion referred to in Paragraphs 1 or 3 this Code, the reasons for its undertaking and other important circumstances necessitating the application of the actions, the reference to the type of required action and the method of its implementation and the extent and duration of the action. The order shall contain the same data as those featured in the prosecutor’s motion as well as a determination of the duration of the ordered action.

(2) Exceptionally, if a written order cannot be received in due time and if a delay would be detrimental, the execution of an action referred to in Article 226 of this Code may commence on the basis of a verbal order pronounced by the preliminary proceedings judge. The written order of the court must be obtained within 24 hours following the issue of the verbal order.

(3) The investigative actions referred to in Items a), through d) and g) of Paragraph 2 of Article 219 of this Code may last up to one (1) month, while on account of particularly important reasons the duration of such actions and upon the properly reasoned motion of the prosecutor, they may be prolonged for a term of another month, provided that the actions referred to in items a), b) and c) last up to six (6) months in total, while the actions referred to in items d) and g) last up to three (3) months in total. The motion as to the action referred to in Item f) of Paragraph 2 of Article 226 may refer only to a single act, whereas the motion as to each subsequent action against the same person must contain a statement of reasons justifying its application.

(4) The order of the preliminary proceedings judge and the motion of the prosecutor referred to in Paragraph 1 of this Article shall be kept in a separate envelope. By

compiling or transcribing the records without making references to the personal data therein about the undercover investigator and informant, or in another appropriate way, the prosecutor and the preliminary proceedings judge shall prevent unauthorized officials as well as the suspect and his defense attorney from establishing the identity of the undercover investigator and of informant.

(5) By way of a written order the preliminary proceedings judge must suspend forthwith the execution of the undertaken actions if the reasons for previously ordering the actions have ceased to exist.

(6) The orders referred to in Paragraph 1 of this Article shall be executed by the police authorities. The companies performing the transmission of information shall be bound to enable the prosecutor and police authorities to enforce the actions referred to in Item a) of Paragraph 2 of Article 226 of this Code.

Article 229

Materials Obtained through the Actions and Notification of the Actions Undertaken

(1) Upon the completion of the application of the actions referred to in Article 226 of this Code, all information, data and objects obtained through the application of the actions as well as a report must be submitted by police authorities to the prosecutor. The prosecutor shall be bound to provide the preliminary proceedings judge with a written report on the actions undertaken. On the basis of the submitted report the preliminary proceedings judge shall evaluate compliance with his order.

(2) Should the prosecutor refrain from prosecution, or should the data and information obtained through the application of the ordered actions not be needed for the criminal proceedings, they shall be destroyed under the supervision of the preliminary proceedings judge, of which event he shall make separate records. The person against whom any of the actions referred to in Article 226 Paragraph 2 of this Code were undertaken, shall be notified of the undertaking of the actions, the reasons for their undertaking, with the information stating that the received material did not constitute sufficient grounds for criminal prosecution and was thereafter destroyed.

(3) The preliminary proceedings judge shall forthwith and following the undertaking of the actions referred to under Article 226 of this Code inform the person against whom the actions were undertaken. That person may request from the court a review of the legality of the order and of the method by which the order was enforced.

(4) Data and information received through the undertaking of the actions referred to in Paragraph 2 of Article 226 of this Code shall be stored and kept as long as the court file is being kept.

Article 230

“Incidental Findings”

No data or information received through the undertaking of actions referred to in Article 219 of this Code shall be used as evidence if they are not related to a criminal offense referred to in Article 220 of this Code.

Article 231

Acting Without the Court Order or Beyond It

If the actions referred to in Article 227 of this Code have been undertaken without the order of the preliminary proceedings judge or contrary to it, the court cannot base its decision on the data or evidence thereby obtained.

Article 232

Admissibility of Evidence Obtained through the Special Actions

Technical recordings, documents and objects obtained under the conditions and in the manner prescribed by this Code may be used as evidence in the criminal proceedings. The undercover investigator and informant referred to in Article 226 Paragraph 2 Item e) and the persons who have undertaken the actions referred to in Article 226 Paragraph 2 Item f) of this Code may be questioned as witnesses in the course of the actions.

CHAPTER XX

INDICTMENT PROCEDURE

Article 233

Issuance of the Indictment

(1) If during the course of an investigation, the prosecutor finds that there is enough evidence for grounded suspicion that the suspect has committed a criminal offense, the prosecutor shall prepare and submit the indictment to the preliminary hearing judge.
(2) After the issuance of the indictment, the suspect or the accused and the defense attorney have a right to examine all the files and evidence.
(3) After the issuance of the indictment, the parties and defense attorney may propose to the preliminary hearing judge to take actions in accordance with Article 223 of this Code.

Article 234

Contents of the Indictment

(1) The indictment shall contain:
    a) the name of the court;
    b) the first and the last name of the suspect and his personal data;
    c) a description of the act pointing out the legal elements which make it a criminal offense, the time and place the criminal offense was committed, the object on which and the instrument with which the criminal offense was committed, and other circumstances necessary for the criminal offense to be defined as precisely as possible;
    d) the legal title of the criminal offense accompanied by the relevant provisions of the Criminal Code;
    e) proposal of evidence to be presented, including the list of the names of witnesses and experts, documents to be read and objects serving as evidence;
    f) the results of the investigation;
    g) material supporting the charges in the indictment.
(2) An indictment may cover more than one criminal offense or more than one suspect.

(3) If the suspect is not detained, it may be proposed in the indictment that he be detained, and if the suspect is already detained, it may be proposed to extend the detention or that he be released.

Article 235

Decision on Indictment

(1) The preliminary hearing judge may confirm or discharge all or some of the counts in the indictment within 8 days from the day of the reception of the indictment. If the preliminary proceedings judge dismisses some or all counts of the indictment he shall issue a decision on it and forward it to the prosecutor. No appeal is allowed against this decision.
(2) During the confirmation of the indictment, the preliminary proceedings judge shall examine each count in the indictment and materials submitted by the prosecutor in order to establish grounded suspicion.
(3) Upon confirmation of some or all counts in the indictment, the suspect shall have the status of an accused. The preliminary hearing judge shall serve the indictment on the accused and his defense attorney.
(4) The preliminary hearing judge shall serve the indictment on the accused who is not detained without delay, and if the accused is already detained, the preliminary proceedings judge shall serve the indictment on him within 24 hours after the confirmation of the indictment. The preliminary hearing judge shall inform the accused that he shall be requested to enter the plea of guilty or not guilty on each count of the indictment within 15 days after the delivery of the indictment, and shall inquire of the accused if he intends to submit the preliminary motions and shall request the accused to list the proposed evidence that needs to be presented at the main trial.
(5) Upon discharge of all or some counts in the indictment, the prosecutor may bring a new or an amended indictment that may be based on new evidence. The new or amended indictment shall be submitted for confirmation.

Article 236

Guilty or not Guilty Plea

(1) A plea of guilty or not guilty shall be entered before the preliminary hearing judge in the presence of the prosecutor and the defense attorney. The plea shall be entered in the record. If the accused fails to enter a plea, the preliminary hearing judge shall, *ex officio*, record that the accused enters a plea of not guilty.
(2) If the accused enters a plea of guilty, the preliminary hearing judge shall refer the case to the judge or to the Panel for scheduling the hearing at which it shall be determined whether the conditions referred to in Article 238 of this Code exist.
(3) A plea of not guilty shall never be held against the accused in determining a sentence if the accused is found guilty at the trial or subsequently changes his plea from not guilty to guilty.
(4) After entering a plea of not guilty into the record, the preliminary hearing judge shall refer the case to the judge or the Panel that has been assigned to try the case so that they can schedule the trial no later than 60 days from the day when the accused entered the plea of not guilty. In exceptional cases, this deadline may be extended for 30 additional days.

Article 237

Deliberation on the Guilty Plea

(1) In the course of deliberation of the statement on the plea of guilty from the accused, the court shall verify the following:
   a) that the plea of guilty was entered voluntarily, consciously and with understanding, and that the accused was informed of the possible consequences, including the satisfaction of the property claims and reimbursement for the costs of the criminal proceedings;
   b) that there is enough evidence proving the guilt of the suspect or the accused.
(2) If the court sustains the plea of guilty, the plea shall be entered in the record of proceedings. In that case, the court shall set the date for pronouncement of the sentence within three days at the latest.
(3) If the court rejects the plea of guilty, the court shall inform the parties and the defense attorney about the rejection and note it in the record of proceedings. The plea of guilty is inadmissible as evidence in the criminal proceedings.

Article 238

Plea Bargaining

(1) The suspect or the accused and the defense attorney may negotiate with the prosecutor on the conditions of pleading guilty to the criminal offense with which the suspect or the accused is charged.
(2) In the plea bargaining with the suspect or the accused and his defense attorney on the admission of guilt under Paragraph 1 of this Article, the prosecutor may propose a sentence of lesser term of imprisonment than the minimum prescribed by the Law for the criminal offense(s) or a less severe punishment to be received by the suspect or the accused.
(3) An agreement on pleading guilty shall be made in writing. The preliminary hearing judge, judge or the panel may sustain or reject the agreement in question.
(4) In the course of deliberation of the agreement on pleading guilty, the court must ensure the following:
   a) that the agreement on pleading guilty was reached voluntarily, consciously and with understanding, and that the accused is informed of the possible consequences, including the satisfaction of the property claims and reimbursement of the expenses of the criminal proceedings;
   b) that there is enough evidence proving the guilt of the suspect or the accused;
   c) that the suspect or the accused understands that by agreement on pleading guilty he waives his right to trial and that he shall not file an appeal against the pronounced criminal sanction.

Article 239

Deliberation on Plea of Guilty

1) If the court accepts the agreement on pleading guilty, the statement of the accused shall be entered in the record. In that case, the court shall set the date for pronouncement of the sentence stipulated in the agreement referred to in Paragraph 3 of this Article within three days at the latest.
2) If the court rejects the agreement on pleading guilty, the court shall inform the parties to the proceedings and the defense attorney about the rejection and note it in the record of proceedings. Pleading guilty before the preliminary proceedings judge, preliminary hearing judge, the judge or the panel is inadmissible as evidence in the criminal proceeding.

3) The court shall inform the injured party about the results of the plea bargaining.

Article 240

Withdrawing the Indictment

(1) The prosecutor may withdraw the indictment without prior approval before its confirmation, and after the confirmation and before the commencement of the main trial, only with the approval of the preliminary hearing judge who confirmed the indictment.
(2) In the case referred to in Paragraph 1 of this Article, the proceeding shall be dismissed by the decision, and the suspect or the accused, the defense attorney and injured party shall be promptly notified of such decision.

Article 241

Reasons for Motion and the Decision on Motion

(1) Preliminary motions, are motions that:
   a) challenge jurisdiction;
   b) allege formal defects in the indictment;
   c) challenge the lawfulness of evidence obtained or of the confession;
   d) seek joint or separate proceedings;
   e) challenge the refusal of a request for assignment of the defense attorney pursuant to Article 47, Paragraph 1 of this Code.
(2) Preliminary motions shall be lodged in writing with the court not later than 15 days after the delivery of the indictment, and they shall be decided prior to referring the case to the judge or the panel for the purpose of scheduling the main trial.
(3) The preliminary hearing judge, who shall not participate in the main trial, shall decide the preliminary motion. No appeal is allowed against the decision on the preliminary motion.

CHAPTER XXI

THE MAIN TRIAL

Section 1 – PUBLIC NATURE OF THE MAIN TRIAL

Article 242

General Public

(1) The main trial shall be public.
(2) Only adults may attend the main trial.
(3) Persons attending the main trial shall not carry arms or dangerous weapons, except for the guards of the accused and persons who are permitted to do so by the judge or the presiding judge.

Article 243

Exclusion of the Public

1) From the opening to the end of the main trial, the judge or the panel of judges may at any time, *ex officio* or on motion of the parties and the defense attorney, but always after hearing the parties and the defense attorney, exclude the public for the entire main trial or a part of it if that is in the interest of the national security, or if it is necessary to preserve a national, military, official or important business

secret, if it is to protect the public peace and order, to preserve morality in the democratic society, to protect the personal and intimate life of the accused or the injured party or to protect the interest of a minor or a witness.

2) The judge or the panel of judges shall issue a decision on exclusion of the public. The decision in question must be explained and publicly announced.
3) The decision on exclusion of the public may be contested only in the appeal against the verdict.

Article 244

Persons to Whom Exclusion of the Public Is Not Applicable

(1) Exclusion of the public shall not include parties, the defense attorney, the injured party, the legal representatives and the attorney-in-fact.
(2) The judge or the panel of judges may allow certain officials, scientists and public officials to be present at the main trial from which the public is excluded, and the judge or the panel of judges, at the request of the accused, may allow the presence also to the accused's spouse, or his cohabitee and his close relatives.
(3) The judge or the panel of judges shall warn persons attending the main trial closed to the public that they shall keep confidential everything they learn at the main trial and shall warn them that it is a criminal offense to disclose such information.

2. Direction of the Main Trial

Article 245

Mandatory Presence at the Main Trial

(1) The judge or the judges in the panel and the record taker must be continuously present during the main trail.
(2) If it seems likely that the main trial will continue for a lengthy period of time, the presiding judge may request from the President of the court to appoint one (1) or two (2) judges to be present at the main trial so that they can replace members of the panel in case of their absence.

Article 246

Obligations of the Judge or the Presiding Judge

(1) The judge or the presiding judge shall direct the main trial.
(2) It is the duty of the judge or the presiding judge to ensure that the subject matter is fully examined, that the truth is found and that everything is eliminated that prolongs the proceedings but does not serve to clarify the matter.
(3) If not prescribed otherwise by this Code, the judge or the presiding judge shall rule on motions of the parties and the defense attorney.
(4) The decisions of the judge or the presiding judge shall always be announced and entered in the report of proceedings with a brief summary of the facts considered.

Article 247

Order of Proceedings in the Main Trial

The main trial shall proceed in the order set forth in this Code, but the judge or the presiding judge may order a departure from the regular order of proceedings due to special circumstances, and especially if it concerns the number of accused, the

number of criminal offenses and the amount of evidence. The reasons why the main trial is not conducted in the order prescribed by the law shall be entered in the record of proceedings.

Article 248

Duties of the Judge or the Presiding Judge

(1) It is the duty of the judge or the presiding judge to ensure the maintenance of order in the courtroom and the dignity of the court. The judge or the presiding judge may immediately upon opening the session warn persons present at the main trial to behave courteously and not to disrupt the work of the court. The judge may order that persons present at the main trial be searched.
(2) The judge or the presiding judge may order that all persons present at the main trial as observers be removed from the session if the measures for maintaining order stipulated by this Code have been ineffective in ensuring that the main trial is not disrupted.
(3) Filming is prohibited in the courtroom. As an exception, the President of the court may allow such filming at the main trial. If the filming is approved, the judge or the presiding judge may for justified reasons order that certain parts of the main trial not be filmed.

Article 249

Penalties for Disruption of Order

(1) The judge or the presiding judge may exclude a person from the courtroom in order to protect the right of the accused to a fair and public trial or to maintain the dignity of trial and disturbance-free proceedings.
(2) The judge or the presiding judge may order that the accused be removed from the courtroom for a certain period if the accused persists in disruptive conduct after having been warned that such conduct may result in his removal from the courtroom. The judge or the presiding judge may continue the proceedings during this period if the accused is represented by the defense attorney.
(3) Should the prosecutor, defense attorney, injured party, legal representative, attorney-in-fact of the injured party, witness, expert, interpreter or other person present at the main trial disrupt the order or disobey the orders of the judge or the presiding judge to maintain the order, the judge or the presiding judge shall warn the person in question. If the warning is ineffective, the judge or the presiding judge may order that the person in question be removed from the courtroom and be fined an amount up to 10.000 KM. Should the prosecutor or defense attorney be removed from the courtroom, the judge or the presiding judge shall refer the matter to the High Judicial and Prosecutorial Council of Republika Srpska or the Bar Association with which the defense attorney is affiliated, for further action.
(4) Should a defense attorney or an attorney-in-fact of the injured continue to disrupt the order even after having been fined, the judge or the presiding judge may prevent him from further representation at the main trial and fine him in the amount up to 30.000 KM. The decision on this issue with explanation shall be entered in the record of proceedings. An interlocutory appeal is allowed against this decision. The main trial shall be adjourbned or postponed to allow the accused to engage another defense attorney and prepare a defense.

Article 250

False Testimony Given by Witness or Expert

If there is grounded suspicion that a witness or an expert has given false testimony in the main trial, the judge or the presiding judge may order that a separate transcript be made of the witness's or the expert's testimony that shall be delivered to the prosecutor.

3. Prerequisites for Holding the Main Trial

Article 251

Opening of the Session

The judge or the presiding judge shall open the session and announce the subject matter of the main trial. The judge or the presiding judge shall then determine whether all summoned persons have appeared, and if not, the judge or the presiding judge shall inspect whether the summons were served on them and whether they have justified their absence.

Article 244

Failure of the Prosecutor or His Substitute to Appear at the Main Trial

(1) If the prosecutor or his substitute was duly summoned but fails to appear in the main trial, the main trial shall be postponed. The judge or the presiding judge shall request the prosecutor or his substitute to explain his reasons for failing to appear. The judge shall decide, based on the prosecutor's explanation, whether the prosecutor should be sanctioned as referred to in Paragraph 2 of this Article. If the prosecutor or his substitute is sanctioned, the High Judicial and Prosecutorial Council of Republika Srpska shall be informed about the sanction.
(2) The judge or the presiding judge may fine the prosecutor or his substitute an amount up to 5.000 KM if the prosecutor or his substitute was duly summoned to the main trial by the court but failed to appear and did not justify his absence.

Article 253

Failure of the Accused to Appear at the Main Trial

(1) If the accused was duly summoned but fails to appear and does not justify his absence, the judge or the presiding judge shall postpone the main trial and order that the accused be brought in at the next session. If the accused justifies his absence before apprehension, the judge or the presiding judge shall revoke the order of apprehension.
(2) If the accused was duly summoned but obviously avoids appearing at the main trial, and if apprehension was not successful, the judge or the presiding judge may order that the accused be placed in custody.
(3) The appeal is allowed against the decision on custody but such appeal shall not stay the execution of the court decision on custody.
(4) If the order regarding custody is not revoked, it shall last until the pronouncement of the verdict, and at a maximum of 30 days.

Article 254

Prohibition of In Absentia Trials

The accused shall never be tried *in absentia*.

Article 255

Failure of the Defense Attorney to Appear at the Main Trial

(1) If the defense attorney was duly summoned but fails to appear in the main trial, the main trial shall be postponed. The judge or the presiding judge shall request that the defense attorney explain his reasons for failing to appear. The judge or the presiding judge shall decide, based on defense attorney's explanation, whether the defense attorney should be sanctioned. The Bar Association with which the defense attorney is affiliated shall be informed whenever the defense attorney is sanctioned under these circumstances.
(2) The judge or the presiding judge may fine the defense attorney an amount up to 5.000 KM if the defense attorney failed to appear at the main trial despite being duly summoned by the court and failed to justify his absence.
(3) If a new defense attorney is appointed for the accused, the main trail shall be postponed. The judge or the presiding judge shall grant an adequate time period to a new defense attorney for the preparation of the defense of the accused, and that time period shall be not less than 15 days for criminal offenses for which a sentence of ten (10) years of imprisonment or more is prescribed, unless the accused waives this right and the judge or the presiding judge is assured that a shorter period for the preparation of the defense shall not interfere with the right of the accused to a fair trial.

Article 256

Failure of the Witness or the Expert to Appear at the Main Trial

(1) If a witness or an expert was duly summoned but fails to appear and does not justify his absence, the judge or the presiding judge may order the witness or the expert to be brought to court.
(2) The judge or the presiding judge may fine the witness or the expert, who was duly summoned but failed to justify his absence, an amount up to 5,000 KM.
(3) In the case referred to in Paragraph 1 of this Article, the judge or the presiding judge shall decide whether the main trial should be postponed.

4. Adjournment and Recess of the Main Trial

Article 257

Reasons for Adjournment of the Main Trial

(1) On the motion of the parties or the defense attorney, the main trial may be adjourned by the decision of the judge or the presiding judge if new evidence needs to be obtained or if the accused has become incapacitated to stand trial after the commission of the criminal offense and or if there are other impediments that prevent the main trial from successful conduct.
(2) The decision to adjourn the main trial shall be entered in the record and, when convenient, the day and hour of the resumption of the main trial shall be designated. The judge or the presiding judge shall also order the securing of evidence that could be lost or destroyed as a result of the adjournment of the main trial.
(3) An appeal is not allowed against the decision referred to in Paragraph 2 of this Article.

Article 258

Resumption of the Adjourned Main Trial

(1) If the main trial resumes after it has been adjourned before the same judge or the panel, the judge or the presiding judge shall briefly summarize the previous course of the proceedings. The judge or the presiding judge may order that the main trial recommence from the beginning.
(2) The main trial that has been adjourned shall recommence from the beginning if the composition of the panel has changed, but upon the hearing of the parties, the panel may decide that in such case the witnesses and experts shall not be examined again and that the new crime scene investigation shall not be conducted but the record of the crime scene investigation and testimony of the witnesses and experts given at the prior main trial shall be read only.
(3) If the adjournment lasted longer than 30 days or if the main trial is being held before another judge or presiding judge, the main trial shall commence from the beginning and all evidence shall be presented again.

Article 259

Recess of the Main Trial

(1) Aside from the cases stipulated in this Code, the judge or the presiding judge may declare a recess of the main trial due to leave or due to the fact that the workday has ended or he may declare the recess in order to obtain certain evidence quickly or for the purpose of preparing the prosecution or defense.
(2) A recessed main trial shall always resume before the same judge or the same panel of judges.
(3) If the main trial may not be resumed before the same judge or the same panel of judges or if the recess of the main trial lasted longer than eight days, the procedure provided for in the provisions of Article 258 of this Code shall be followed.

5. Record of Proceedings

Article 260

Manner of Taking Down the Record of Proceedings

(1) A verbatim record of the entire course of the main trial must be taken down in the record of proceedings.
(2) The judge or the presiding judge may order that a certain part of the record be read or copied, and it shall be always read or copied at the request of the parties, of the defense attorney or of a person whose statement was entered in the record.

Article 261

Entering the Pronouncement of Verdict in the Record of Proceedings

(1) A complete pronouncement of the verdict shall be entered in the record of proceedings, indicating whether the verdict was announced publicly. The pronouncement of the verdict entered in the record of proceedings represents the original document.
(2) If the decision on custody has been rendered, it must also be entered in the record of proceedings.

Article 262

Preservation of Physical Evidence

(1) Physical evidence gathered during criminal proceedings shall be stored and preserved in the court's special room. The judge or the presiding judge may, at any time, issue an order concerning the control and disposition of the physical evidence.
(2) The Ministry of Justice shall issue regulations in which the manner and conditions for preserving the physical evidence referred to in Paragraph 1 of this Article shall be determined.

6. Commencement of the Main Trial

Article 263

Entrance of the Judge or the Presiding Judge into the Courtroom

(1) When the judge or the panel of judges enters or exits the courtroom, all present shall stand up upon the call from the authorized person.
(2) Parties and other participants of the proceedings are obliged to stand up when addressing the court unless there are justified reasons for not doing so.

Article 264

Prerequisites for Holding the Main Trial

When the judge or the presiding judge ascertains that all persons summoned have appeared at the main trial, or when the judge or the presiding judge decides that the main trial shall be held in the absence of certain persons summoned, or a decision on these matters has been postponed, the judge or the presiding judge shall call the accused and obtain personal data from him in order to verify his identity.

Article 265

Verifying the Identity of the Accused and Giving Instructions

(1) The judge or the presiding judge shall obtain personal data from the accused (Article 142) in order to verify his identity.
(2) After verification of the identity of the accused, the judge or the presiding judge shall ask the parties and defense attorney whether they have any motions regarding the composition of the panel or jurisdiction of the court.
(3) Once the identity of the accused has been verified, the judge or the presiding judge shall direct the witnesses and experts to the space assigned to them outside the courtroom where they shall wait until called for questioning. The judge or the presiding judge shall warn the witnesses not to discuss their testimony with each other while waiting. Upon motion of the prosecutor, the accused or the defense attorney, the judge or the presiding judge shall allow requested experts to attend the main trial.
(4) If the injured party is present, but still has not filed the property claim, the judge or the presiding judge shall inform the person in question that such a claim may be filed by the closing of the main trial.
(5) The judge or the presiding judge may undertake necessary actions to prevent witnesses, experts and parties from communicating with each other.

Article 266

Instructions to the Accused

The judge or the presiding judge shall warn the accused to carefully follow the course of the main trial and shall instruct him that he may present facts and propose evidence in his favor, that he may question co-defendants, witnesses and experts and that he may offer explanations regarding their testimony.

Article 267

Reading of the Indictment and Evidence of the Prosecution and the Defense

(1) The main trial shall commence by a reading of the indictment. The indictment shall be read by the prosecutor.
(2) The prosecutor shall then briefly state the evidence by which the prosecutor expects to sustain the case of prosecution. After the indictment has been read, the judge or the presiding judge shall ask the accused whether he has understood the charges. If the judge or the presiding judge finds that the accused has not understood the charges, the judge or the presiding judge shall summarize the content of the indictment in a manner understandable to the accused.
(3) The accused or his defense attorney may then state the defense and briefly state the evidence that shall be presented in the defense.

7. Evidentiary Procedure

Article 268

Presentation of Evidence

(1) Parties and the defense attorney are entitled to call witnesses and to present evidence.
(2) Unless the judge or the panel, in the interest of the justice, decides otherwise, the evidence at the main trial shall be presented in the following order:
   a) evidence of the prosecution;
   b) evidence of the defense;
   c) rebuttal evidence of the prosecution (replication);
   d) evidence in reply to the prosecutor's rebuttal evidence (rejoinder);
   e) evidence whose presentation was ordered by the judge or the panel;
   f) all relevant information that may help the judge or the panel in determining appropriate criminal sanction, if the accused is found guilty on one or more counts in the indictment.
(3) During the presentation of the evidence, direct examination, cross-examination and redirect examination shall be allowed. The party who called a witness shall directly examine the witness in question, but the judge or the presiding judge may at any stage of the examination ask the witness appropriate questions.

Article 269

Direct Examination and Cross-examination

(1) Direct examination, cross-examination and redirect examination shall always be permitted. The party who called a witness shall directly examine the witness in question, but the judge or the presiding judge and members of the panel may at any stage of the examination ask the witness appropriate questions. Questions in cross-examination shall be limited and shall relate to the questions asked during direct examination. Questions on redirect examination shall be limited and shall

relate to questions asked during cross-examination. After examination of the witness, the judge or the presiding judge and members of the panel may question the witness.

(2) Leading questions shall not be used during the direct examination except if there is a need to clarify the witness's testimony. As a general rule, leading questions shall be allowed only during the cross-examination. When a party calls the witnesses of the adversarial party or when a witness is hostile or uncooperative, the judge or the presiding judge may at his own discretion allow the use of leading questions.

(3) The judge or the presiding judge shall exercise an appropriate control over the manner and order of the examination of witnesses and the presentation of evidence so that the examination of and presentation of evidence is effective to ascertain the truth, to avoid loss of time and to protect the witnesses from harassment and confusion.

(4) During the presentation of evidence referred to in Item e. Paragraph 2 of Article 268 of this Code, the court shall question the witness and then allow the parties and the defense attorney to ask the witness questions.

Article 270

The Right of Court to Disallow A Question or Evidence

(1) The judge or the presiding judge shall forbid the repetition of a question and answer to such question – if, in his opinion, the question is inadmissible or irrelevant.

(2) If the judge or the presiding judge finds that the circumstances that a party tries to prove are irrelevant to the case or that the presented evidence is unnecessary, the judge or the presiding judge shall reject the presentation of such evidence.

Article 271

Special Evidentiary Rules When Dealing With Cases of Sex Crimes

1) The evidence concerning past sexual behavior and the sexual orientation of the injured party is not admissible.

2) Notwithstanding Paragraph 1 of this Article, evidence offered to prove that semen, medical documents on injuries or any other physical evidence may come from a person other than the accused, is admissible.

3) In the case of the criminal offense against humanity and international humanitarian law, the consent of the victim shall not be used in favor of the defendant.

4) Before admitting evidence pursuant to this Article, the court shall conduct an appropriate hearing *in camera*.

5) The motion, supporting documents and the record of the hearing must be sealed in a separate envelope, unless the court orders otherwise.

Article 272

The Consequences of the Confession of the Accused

If a confession of the accused during the main trial is complete and in accordance with previously presented evidence, then, in the evidentiary proceedings, only evidence related to the decision on criminal sanction shall be presented.

Article 273

Taking an Oath or Affirmation

(1) All witnesses shall take an oath or affirmation replacing an oath before testifying.
(2) The text of the oath or the affirmation is as follows: “I swear or affirm on my honor and conscience that I shall speak the whole truth on everything the court asks me and shall not conceal, add or alter anything known to me on this subject.”
(3) Mute witnesses who are able to read and write shall take an oath by signing the text of the oath or affirmation, and deaf witnesses shall read the text of the oath or affirmation. If mute or deaf witnesses are not able to read or write, the oath or affirmation shall be given through a person using the sign language.

Article 274

Protection of Witnesses from Insults, Threats and Attacks

(1) The judge or the presiding judge shall protect the witness from insults, threats and attacks.
(2) The judge or the presiding judge shall warn or fine a participant in the proceedings or any other person who insults, threatens or jeopardizes the safety of the witness before the court. In the case of the fine, provisions of Article 249, Paragraph 1 of this Code shall be applied.
(3) In the case of a serious threat to a witness, the judge or the presiding judge shall inform the prosecutor for the purpose of undertaking criminal prosecution.
(4) At the petition of the parties or the defense attorney, the judge or the presiding judge shall order the police to undertake actions necessary to protect the witness.

Article 275

Sanctions for Refusing to Testify

(1) If the witness refuses to testify without providing a justified reason and after being warned of the consequences, the witness may be fined an amount up to 30,000 KM.
(2) An appeal is allowed against the decision referred to in Paragraph 1 of this Article but it shall not stay the execution of the decision.

Article 276

Engagement of the Expert

(1) The parties, the defense attorney and the court may engage an expert.
(2) Expenses of the expert referred to in Paragraph 1 of this Article shall be paid by the one who engaged the expert.

Article 277

Examination of the Experts

(1) Before an examination of an expert, the judge or the presiding judge shall remind the expert of his duty to present his findings and opinion to the best of his knowledge and in accordance with the ethics of his profession and shall warn him that the presentation of false findings and false opinions is a criminal offense.
(2) The expert shall take an oath or affirmation prior to presenting his testimony.
(3) The oath or affirmation shall be taken orally.
(4) The text of the oath or affirmation is as follows: “ I swear/affirm on my honor that I shall testify truthfully and shall present my findings and opinion accurately and completely.”

(5) The expert shall present his findings and opinion orally in the main trial. In that case, the expert shall be cross-examined by both parties and the defense attorney.
(6) The written findings and opinion of the expert shall only be admitted as evidence if the expert in question testified at the main trial and was subject to cross-examination.

Article 278

Discharging Witnesses and Experts

(1) Witnesses and experts who have been examined by both parties and the defense attorney shall remain outside of the courtroom until the judge or presiding judge discharges them.
(2) The judge or the presiding judge may order *ex officio* or on the motion of the parties or the defense attorney that examined witnesses and experts leave the courtroom and be subsequently recalled and re-examined in the presence of other witnesses and experts.

Article 279

Examination out of the Court

(1) If it is learned during the proceedings that a witness or expert is not able to appear before the court or that his appearance would be of great difficulty, the judge or the presiding judge, if he deems the testimony of witness and expert important, may order that he be examined out of the court. The judge or the presiding judge, the parties and the defense attorney shall be present at the examination, and the examination shall be conducted in accordance with Article 269 of this Code.
(2) If the judge or the presiding judge finds it necessary, the examination of the witness may be carried out during a reconstruction of the criminal offense out of the court. The judge or the presiding judge, the parties and the defense attorney shall be present at the reconstruction, and the examination shall be carried out in accordance with Article 269 of this Code.
(3) The parties, defense attorney and injured party shall always be notified about the time and place of the examination of witnesses or the reconstruction, with an instruction that the parties, defense attorney and witnesses must attend these proceedings. Examination shall be carried out as if it was carried out at the main trial in accordance with Article 269 of this Code.
(4) If the judge or the presiding judge finds it necessary, the examination of minors as witnesses shall be carried out in accordance with Article 150, Paragraph 6, and Article 154 of this Code.

Article 280

Exceptions from the Direct Presentation of Evidence

(1) Statements given during the investigative phase are admissible as evidence in the main trial and may be used in cross-examination or in rebuttal or in rejoinder. In this case, the person may be given the opportunity to explain or deny the prior statement.
(2) Notwithstanding Paragraph 1 of this Article, if the judge or the panel of judges so decides, records on testimony given during the investigative phase, shall be read or used as evidence at the main trial only if the persons who gave the statements are dead, affected by mental illness, cannot be found or their presence in court is impossible or very difficult due to important reasons.

Article 281

Records on Evidence

(1) Records concerning the crime scene investigation, the search of dwellings and persons, the forfeiture of things, books, records and other evidence, shall be introduced at the main trial in order to establish their content, and at the discretion of the judge or presiding judge, their content may be entered in the record of proceedings in summarized version.
(2) To prove the content of writing, recording or photograph, the original writing, recording or photograph is required, unless otherwise stipulated by this Code.
(3) Notwithstanding Paragraph 2 of this Article, a certified copy of the original may be used as evidence or the copy verified as unchanged with respect to the original.
(4) Evidence referred to in Paragraph 1 of this Article shall be read unless the parties and the defense attorney do not agree otherwise.

Article 282

Amendment of the Indictment

If the prosecutor evaluates that the presented evidence indicates a change of the facts presented in the indictment, the prosecutor may amend the indictment during the main trial. The main trial may be postponed in order to give adequate time for preparation of the defense. In this case, the indictment shall not be confirmed.

Article 283

Supplementary Evidence

(1) After the presentation of evidence, the judge or the presiding judge shall ask the parties and defense attorney if they have additional evidentiary motions.
(2) If the parties or the defense attorney has no evidentiary motions or their motions are rejected, the judge or the presiding judge shall declare the evidentiary proceedings completed.

Article 284

Closing Arguments and Conclusion of the Main Trial

(1) Upon the completion of the evidentiary proceedings, the judge or the presiding judge shall call the prosecutor, injured party, defense attorney and the accused to present their closing arguments. The last statement shall be always given by the accused.
(2) If the prosecution is represented by more than one prosecutor and if the accused is represented by more than one defense attorney, all prosecutors and defense attorneys may give their closing arguments, but their closing arguments shall not be repetitive and they may be time limited.

Once all closing arguments are completed, the judge or the presiding judge shall declare the main trial closed and the court shall retire for deliberation and voting for the purpose of reaching a verdict.

CHAPTER XXII

THE VERDICT

1. Pronouncement of the Verdict

Article 285

Pronouncement and Announcement of the Verdict

The verdict shall be pronounced and announced in the name of Republika Srpska.

Article 286

Correspondence between the Verdict and Charges

(1) The verdict shall refer only to the accused person and only to the criminal offense specified in the indictment that has been confirmed, or amended at the main trial.
(2) The court is not bound to accept the proposals regarding the legal classification of the act.

Article 287

Evidence on Which the Verdict Is Grounded

(1) The court shall reach a verdict solely based on the facts and evidence presented at the main trial.
(2) The court is obliged to conscientiously evaluate every piece of evidence and its correspondence with the rest of the evidence and, based on such evaluation, to conclude whether the fact(s) have been proved.

2. Types of Verdicts

Article 288

Meritorious and Procedural Verdicts

(1) The verdict shall dismiss the charge, acquit the accused or declare him guilty.
(2) If the charge encompasses several criminal offenses, the verdict shall declare for each of them whether the charge is dismissed, or the accused is acquitted of the charge or is declared guilty.

Article 289

Verdict Dismissing the Indictment

The court shall pronounce the verdict dismissing the charges in following cases:
a) if the court is not competent to reach the verdict;
b) if the proceedings were conducted without the prosecutor having requested so;
c) if the prosecutor dropped the charges between the beginning and the end of the main trial;
d) if there was no necessary approval or if the competent state body revoked the approval;
e) if the accused has already been convicted by a finally binding decision of the same criminal offense or has been acquitted of the charges or if proceedings against him have been dismissed by a finally binding decision, provided that the decision in question is not the decision on dismissing the proceedings referred to in Article 332 of this Code;
f) if by an act of amnesty or pardon, the accused has been exempted from criminal prosecution or if criminal prosecution may not be undertaken due to the statute of

limitations or if there are other circumstances which permanently preclude criminal prosecution.

Article 290

Verdict Acquitting the Accused

The court shall pronounce the verdict acquitting the accused of the charges in the following cases:

a) if the act with which he is charged does not constitute a criminal offense under the law;
b) if there are circumstances which exclude criminal responsibility;
c) if it is not proved that the accused committed the criminal offense with which he is charged.

Article 291

Guilty Verdict

(1) In a guilty verdict, the court shall pronounce the following:
   a) the criminal offense for which the accused is found guilty along with a citation of the facts and circumstances that constitute the elements of the criminal offense and those on which the application of a particular provision of the Criminal Code depends;
   b) the legal title of the criminal offense and the provisions of the Criminal Code that was applied;
   c) the punishment to which the accused is sentenced or released from punishment under the provisions of the Criminal Code;
   d) a decision on suspended sentence;
   e) a decision on security measures and forfeiture of the proceeds of crime and a decision on return of objects (Article 138) if such objects have not been returned to their owner or the possessor;
   f) a decision crediting the period of pre-trial custody or time already served;
   g) a decision on costs of criminal proceedings and on a property claim, and the decision that the finally binding verdict shall be announced in the press, or radio or television.

(2) If the accused has been fined, the verdict shall indicate the deadline for payment, or way to substitute the fine in case that the accused is not able to pay.

3. Announcement of the Verdict

Article 292

Date and Place of the Announcement of Verdict

(1) After the pronouncement of the verdict, the court shall announce the verdict immediately. If the court is unable to announce the verdict the same day the main trial was completed, the judge may postpone the announcement of the verdict for a maximum of three days and shall set the date and place when the verdict shall be announced.
(2) The court shall read the pronouncement of the verdict in the presence of the parties and the defense attorney, their legal representatives and their attorneys-in-fact and briefly explain it.
(3) The verdict shall be announced even if the parties, the defense attorney, legal representative or attorney-in-fact are not present. The court may decide that the

judge or the presiding judge shall orally announce the verdict to the accused absent during the announcement or that the verdict only be served on the accused.

(4) If the public has been excluded from the main trial, the verdict must be read in a public session. The panel of judges shall decide whether and to what extent the public shall be excluded when announcing the reasons for the verdict.

(5) All those present shall stand to hear the reading of the verdict.

Article 293

Custody After Pronouncement of the Verdict

Provisions of Article 189 of this Code shall apply when ordering, extending or terminating the custody after the announcement of the verdict and until the verdict becomes finally binding.

Article 294

Instructions on the Right to Appeal and Other Instructions

(1) Upon the announcement of the verdict, the judge or the presiding judge shall instruct the accused and the injured party on their right to appeal, and on the right to answer to the appeal.

(2) If the accused has received a suspended sentence, the judge or presiding judge shall caution him as to the significance of a suspended sentence and conditions to which he must adhere.

(3) The judge or the presiding judge shall warn the accused that he must notify the court regarding every change of the address until the finally binding verdict is rendered.

4. Written Production and the Delivery of the Verdict

Article 295

Written Production of the Verdict

(1) An announced verdict must be prepared in writing within 15 days from its announcement, and in complicated matters and as an exception, within 30 days. If the verdict has not been prepared by these deadlines, the judge or the presiding judge shall inform the President of the court as to why this has not been done. The President of the court shall, if necessary, undertake the necessary steps to have the verdict written as soon as possible.

(2) The judge or the presiding judge and the record taker shall sign the verdict.

(3) A certified copy of the verdict shall be delivered to the prosecutor and to the injured party, and it shall be delivered to the accused and the defense attorney pursuant to Article 82 of this Code. If the accused is in custody, certified copyies of the verdict shall be sent within the time periods stipulated in Paragraph 1 of this Article.

(4) The instructions on the right to appeal shall be also delivered to the accused and the injured party.

(5) The court shall deliver a certified copy of the verdict, with instructions as to the right to appeal, to a person who owns the property forfeited under the verdict in question and to a legal person against whom forfeiture of the proceeds of crime was ordered. The finally binding verdict shall be delivered to the injured party.

Article 296

The Contents of the Verdict

(1) A written verdict shall fully correspond to the announced verdict. The verdict shall have an introductory part, the pronouncement and the opinion.

(2) The introductory part of the verdict shall contain the following: a statement that the verdict is pronounced in the name of Republika Srpska, the name of the court, the first and last names of the presiding judge and judges in the panel and the record taker, the first and last name of the accused, the criminal offense with which the accused is charged and whether the accused was present at the main trial, the date of the main trial and whether the main trial was public, first and last name of the prosecutor, defense attorney, legal representative and attorney-in-fact who were present at the main trial and the date when the pronounced verdict was announced.

(3) The pronouncement of the verdict shall contain the personal data of the accused and the decision declaring the accused guilty of the criminal offense with which he is charged or the decision acquitting him of the charge in question or the decision rejecting the charge.

(4) If the accused is found guilty, the pronouncement of the verdict shall include the necessary data referred to in Article 291 of this Code, and if the accused is acquitted of the charge or the charge is rejected, the pronouncement of the verdict shall include a description of the criminal offense with which the accused is charged and a decision on the costs of criminal proceedings and a property claim if such was made.

(5) In the case of joinder of criminal offenses, the court shall incorporate in the pronouncement of the verdict the penalties determined for each individual criminal offense and then the total sentence pronounced for all the criminal offenses.

(6) In the opinion of the verdict, the court shall present the reasons for each count of the verdict.

(7) The court shall specifically and completely state which facts and on what grounds the court finds to be proven or unproven, furnishing specifically an assessment of the credibility of contradictory evidence, the reasons why the court did not sustain the various motions of the parties, the reasons why the court decided not to directly examine the witness or expert whose testimony was read, and the reasons guiding the court in ruling on points of law and especially in establishing whether the criminal offense was committed and whether the accused was criminally responsible and in applying specific provisions of the Criminal Code to the accused and to his act.

(8) If the accused has received a sentence, the opinion shall state the circumstances the court considered in determining the level of punishment. The court shall specifically present the reasons which guided the court when it decided on a more severe punishment than that prescribed, or when it decided that the punishment should be more lenient or the accused should be released from the punishment or when the court has pronounced a suspended sentence or has pronounced a security measures or forfeiture of the proceeds of crime.

(9) If the accused is acquitted of the charge, the opinion shall specifically state on what grounds referred to in Article 290 of this Code the acquittal is based.

(10) In the opinion of a verdict rejecting the charge, the court shall not decide the merits, but shall restrict itself solely to the grounds for rejecting the charge.

Article 297

Corrections in the Verdict

(1) Errors in names and numbers and other obvious errors in writing and arithmetic, formal defects and disagreements between the written copy of the verdict and the original verdict shall be corrected through a special decision by the judge or the presiding judge, on the motion of the parties and defense attorney or *ex officio*.
(2) If there is a discrepancy between the written copy of the verdict and the original of the verdict with respect to Article 291, Paragraph 1, Items a) through e) and Item g) of this Code, the decision on the correction shall be delivered to the persons referred to in Article 295 of this Code. In that case, the period allowed for appeal shall commence on the date of delivery of the decision against which no interlocutory appeal is allowed.

CHAPTER XXIII

REGULAR LEGAL REMEDIES

1. Appeal Against the First Instance Verdict

Article 298

Right to Appeal and the Deadline for Appeal

(1) An appeal may be filed against the verdict rendered by the court of first instance within 15 days from the date when the copy of the verdict was delivered.
(2) In complex matters, the court may, on the motion of the parties or the defense attorney, extend the deadline for filing an appeal for a maximum of 15 days.
(3) Until the court renders a decision on a motion referred to in Paragraph 2 of this Article, the deadline for filing an appeal shall not run.
(4) An appeal filed on time shall stay the execution of the verdict.

Article 299

Subjects of the Appeal

(1) The parties, the defense attorney and the injured party may file an appeal.
(2) An appeal on behalf of the accused may also be filed by his legal representative, spouse or cohabitee, direct blood relative, adoptive parent, adopted child, brother, sister and foster parent. In this case, the period allowed for the appeal shall run from the day when the accused or his defense attorney was delivered a copy of the verdict.
(3) The prosecutor may file an appeal in favour or against the accused.
(4) The injured party may contest the verdict only with respect to the decision of the court on costs of the criminal proceedings and with respect to the decision on the property claim.
(5) An appeal may also be filed by a person whose item was forfeited or from whom the property gain obtained by a criminal offense was forfeited.
(6) The defense attorney and persons referred to in Paragraph 2 of this Article may file an appeal even without a special authorization of the accused, but not against the will of the accused, unless a sentence of long period imprisonment was pronounced on the accused.

Article 300

Waiving and Abandoning an Appeal

(1) The accused may waive the right to appeal only after the verdict has been delivered to him. The accused may waive the right to appeal even before that date if the prosecutor has waived the right to appeal, unless under the verdict the accused must serve a prison sentence. The accused may abandon an appeal already filed that is pending before an appellate court.
(2) The prosecutor may waive the right to appeal from the moment when the verdict is announced to the end of the period allowed for filing an appeal, and the prosecutor may abandon an appeal already filed that is pending before an appellate court.
(3) The waiver and abandonment of an appeal may not be revoked.

Article 301

Contents of Appeal and Removing the Shortcomings of the Appeal

(1) An appeal should include:
   a) an indication of the verdict being appealed, including the name of the court, the number and the date of the verdict;
   b) the grounds for contesting the verdict (article 302);
   c) the reasoning behind the appeal;
   d) a proposal for the contested verdict to be fully or partially reversed, or revised;
   e) at the end, the signature of the appellant.

(2)If an appeal has been filed by the accused or another person referred to in Article 291, Paragraph 2 of this Code, and the accused does not have defense attorney, or if the appeal has been filed by an injured party who has no attorney-in-fact, and the appeal has not been drawn up in conformity with the provisions of Paragraph 1 of this Article, the trial court shall call upon the appellant to supplement the appeal in writing or orally with the court by a certain date. If the appellant fails to respond, the court shall dismiss the appeal if it does not contain the data referred to in Item b), c), and e) of Paragraph 1 of this Article; if the appeal does not contain the data referred to in Item a) of Paragraph 1 of this Article, it shall be dismissed if it cannot be ascertained to what verdict it pertains. If the appeal has been filed in favor of the defendant, it shall be delivered to the appellate court if it can be established to what verdict it pertains, otherwise, the appeal shall be dismissed.

(3)If an appeal was filed by the injured party who is represented by a attorney-in-fact or filed by the prosecutor, and an appeal does not contain the data referred to in Items b), c), and e) of Paragraph 1 of this Article or data referred to in Item a) of Paragraph 1 of this Article, and it cannot be ascertained to what verdict the appeal pertains, the appeal shall be dismissed. An appeal that lacks the aforesaid data filed in the favor of the accused who is represented by the defense attorney, shall be delivered to the appellate court if it can be ascertained to what verdict the appeal pertains, and if it can not be ascertained, then it shall be dismissed.

New facts and new evidence, which despite due attention and cautiousness were not presented at the main trial, may be presented in the appeal. The appellant must cite the reasons why he did not present them previously. In referring to new facts, the appellant must cite the evidence that would allegedly prove these facts; in referring to new evidence, he must cite the facts that he wants to prove with that evidence.

Article 302

Grounds for Appeal

A verdict may be contested on the grounds of:

a) an essential violation of the provisions of Criminal Procedure Code;
b) a violation of the Criminal Code;
c) the state of the facts being erroneously or incompletely established;
d) the decision as to the sanctions, the forfeiture of the proceeds of crime, costs of criminal proceedings, property claims and announcement of the verdict through the media.

Article 303

Essential Violations of the Criminal Procedure Provisions

(1) The following constitute an essential violation of the provisions of criminal procedure:
   a) if the court was improperly composed or if a judge participated in pronouncing the verdict who did not participate in the main trial or who was disqualified from trying the case by a finally binding decision;
   b) if a judge who should have been disqualified participated in the main trial (Article 37, Paragraphs a) through d));
   c) if the main trial was held in the absence of a person whose presence at the main trial was required by law, or if the defendant, defense attorney or the injured party, in spite of his motion was denied the use of his own language at the main trial and the opportunity to follow the course of the main trial in his language (Article 8);
   d) if the right to defense was violated;
   e) if the public was unlawfully excluded from the main trial;
   f) if the court violated the rules of criminal procedure that require an approval of the competent authority;
   g) if the court reached a verdict and did not have subject matter jurisdiction over the case, or if the court rejected the charges improperly due to a lack of subject matter jurisdiction;
   h) if, in its verdict, the court did not entirely resolve the subject-matter of the indictment;
   i) if the verdict is based on evidence that may not be used as the basis of a verdict under the provisions of this Code;
   j) if the charge has been exceeded (Article 286, Paragraph 1);
   k) if the wording of the verdict was incomprehensible, internally contradictory or contradicted the grounds of the verdict or if the verdict had no grounds at all or if it did not cite reasons concerning the decisive facts.
(2) There is also a substantial violation of the principles of criminal procedure if the court has not applied or has improperly applied some provisions of this Code to the preparation of the main trial or during the main trial or in rendering the verdict, and this affected or could have affected the rendering of a lawful and proper verdict.

Article 304

Violations of the Criminal Code

The following points shall constitute a violation of the Criminal Code if they are wrongly decided:

a) whether the act for which the accused is being prosecuted constitutes a criminal offense;
b) whether the circumstances exist that preclude criminal responsibility;
c) whether the circumstances exist that preclude criminal prosecution, and especially as to whether the statute of limitations applies to the prosecution, or whether prosecution is precluded because of amnesty or pardon, or whether the cause has already been decided by a finally binding verdict;
d) if a law that could not be applied has been applied to the criminal offense that is the subject matter of the charge;
e) if the decision pronouncing the sentence, suspended sentence or judicial admonition or decision pronouncing a security measure or forfeiture of the proceeds of crime, has exceeded the authority that the court has under the law;
f) if provisions have been violated concerning the crediting of period of pre-trial custody and time served.

Article 305

Incorrectly or Incompletely Established Facts

(1) A verdict may be contested because the state of the facts has been incorrectly or incompletely established when the court has erroneously established some conclusive fact or has failed to establish it.
(2) It shall be taken that the state of facts has been incompletely established when new facts or new evidence so indicate.

Article 306

Decision on the Sentence, the Costs of the Proceedings, the Property Claims and the Announcement of the Verdict

(1) A verdict or decision on admonition of the defendant may be contested because of the decision on the level of sentence, suspended sentence or admonition when the court did not exceed its jurisdiction in the decision (Article 304, Item d), but the court did not correctly determine the punishment in view of the circumstances that had a bearing on greater or lesser punishment, and also because the court applied or failed to apply the rule of lenity, provisions respecting release from punishment, suspended sentence or admonition of the defendant although legal requirements existed.
(2) A decision on a security measure or forfeiture of the proceeds of crime may be contested when there is no violation of the law under Article 304, Item d) of this Code, but the court incorrectly rendered that decision or did not pronounce a security measure or order for forfeiture of the proceeds of crime although legal requirements were met. These same reasons may be the grounds for contesting a decision on the costs of the criminal proceedings.
(3) A decision on a property claim and a decision on announcing the verdict through the media may be contested when the court has rendered the decision on these matters contrary to the provisions of law.

Article 307

Filing an Appeal

(1) The appeal shall be filed with the court in a sufficient number of copies for the court, for the adverse party and defense attorney to prepare a reply.
(2) The judge or the presiding judge shall issue a decision rejecting an appeal that is late (Article 317) or inadmissible (Article 318).

Article 308

An Answer to Appeal

A copy of the appeal shall be submitted to the opposing party and to defense attorney (Article 82 and 83) who, within eight days of the date of receipt of the appeal, may file their response to the appeal with the court. Along with the entire file, the appeal and the response to the appeal, shall be submitted to the appellate court.

Article 309

Reporting Judge

(1) When the documents pertaining to the appeal reach the appellate court, the presiding judge of the appellate panel shall appoint a reporting judge.
(2) The reporting judge may, if necessary, obtain the report on violations of the provisions of criminal procedure from the trial court, and the reporting judge may inspect the contents of the appeal with respect to new evidence and new facts and obtain necessary reports or documents.
(3) When a reporting judge receives the file, the presiding judge of the panel shall schedule a session of the panel.

Article 310

Session of the Panel

(1) The prosecutor, the accused and his defense attorney shall be informed about the session of the panel.
(2) If the accused is in custody or serving the sentence, his presence shall be ensured.
(3) The session shall open with the presentation of the appellant, and then the other party shall present the answer to the appeal. The panel may request for any necessary explanation regarding the appeal and the answer to appeal from the parties and the defense attorney present at the session. The parties and the defense attorney may propose that certain documents be read and may, upon the permission from the presiding judge of the panel, present any necessary explanation for their points in the appeal, or the answer to the appeal without being repetitive.
(4) Failure of the parties and the defense attorney to appear at the session despite being duly summoned shall not preclude the session from being held.
(5) The public may be excluded from the session of the panel at which the parties are present only under the conditions stipulated in this Code (Article 243 and Article 244).
(6) The record of the panel session shall be added to the case file.
(7) The decision referred to in Article 317 and Article 318 of this Code may be rendered even without informing the parties and the defense attorney about the session of the panel.

Article 311

Decision Rendered in a Session or on the Basis of a Hearing

The appellate court shall render a decision in a session of the panel or on the basis of a hearing.

Article 312

Limits in Reviewing the Verdict

The appellate court shall review the verdict only insofar as it is contested by the appeal.

Article 313

Rule Against *Reformatio in Peius*

If an appeal has been filed only in favor of the accused, the verdict may not be modified to the detriment of the accused.

Article 314

Extended Effect of the Appeal

An appeal filed in favor of the accused due to the state of the facts being erroneously or incompletely established or due to the violation of the Criminal Code shall also contain an appeal of the decision concerning the sentence and forfeiture of the proceeds of crime (Article 306).

Article 315

Beneficium cohaesionis

If in ruling on an appeal, regardless of who filed the appeal, the appellate court finds that the grounds on which the decision was rendered in favor of the accused is also of benefit to any of the co-defendants who did not file an appeal or did not file an appeal along the same lines, it shall *ex officio* proceed as though such an appeal had been filed.

Article 316

Decisions on the Appeal

(1) In a session of the panel of the appellate court, the panel may reject the appeal as being late or inadmissible or the panel may refuse the appeal as unfounded and confirm or revise the verdict of the first instance or reverse the verdict and hold the main trial.
(2) The appellate court shall decide in a single decision on all appeals against the same verdict.

Article 317

Rejecting the Appeal for Being Late

A decision shall be rendered to reject the appeal for being late if it is found to have been filed after the lawful date.

Article 318

Rejecting of the Appeal as Inadmissible

A decision shall be rendered to reject the appeal as inadmissible if it is found to have been filed by a person not eligible or authorized to file an appeal or a person who waived the right to appeal, or if it is found to have been abandoned or if after the abandonment the appeal was filed again or the appeal is not allowed under the law.

Article 319

Refusing the Appeal

The appellate court shall issue a decision refusing the appeal as unfounded and confirm the verdict of the first instance when it finds that the grounds on which the verdict is contested by the appeal do not exist.

Article 320

Revision of the First Instance Verdict

(1) Allowing an appeal, the appellate court shall render a decision revising the verdict of the first instance if the court deems that the decisive facts have been correctly ascertained in the verdict of the first instance and that in view of the state of the facts established, a different verdict must be rendered when the law is properly applied, according to the state of the facts and in the case of violations as per Article 303, Paragraph 1, Item f) and i) of this Code.
(2) If the appellate court finds that legal requirements are met for passing judicial admonition on the defendant, it shall revise the original verdict and pass the judicial admonition on the defendant.
(3) If due to the revision of the original verdict, requirements to order or to terminate the custody pursuant to Article 188, Paragraph 1 and 2 of this Code have been fulfilled, the appellate court shall issue a separate decision against which an appeal is not allowed.

Article 321

Revocation of the First Instance Verdict

(1) Allowing the appeal, the appellate court shall revoke the first instance verdict and order for a retrial if it finds that:
    a) major violations of the provisions of the criminal procedure exist, except cases referred to in Article 320, Paragraph 1 of this Code;
    b) it is necessary to present new evidence or repeat the examination of evidence presented in the first instance proceedings that caused the state of facts to be erroneously and incompletely established.
(2) The appellate court may also partially revoke the first instance verdict if certain parts of the verdict can be severed out without causing a detriment to rightful adjudication, and hold a trial concerning the parts in question.
(3) If the accused is in custody, the appellate court shall review whether the grounds for custody still exist and issue a decision on extension or termination of the custody. An appeal is not allowed against this decision.
(4) If the accused is in custody, the appellate court shall issue a decision not later than three (3) months from the day the court received documents.

Article 322

Opinion in the Decision on Revoking the First Instance Verdict

In the opinion of the verdict, in the part by which the first instance verdict is reversed or in the decision on revoking the first instance verdict, only brief reasons for revoking the verdict shall be cited.

Article 323

Hearing Before the Appellate Court

(1) Provisions that apply to the main trial before the court of first instance shall be accordingly applied to a hearing before the appellate court.
(2) If the panel of appellate court finds that it is necessary to repeat the examination of evidence presented in the first instance proceedings, testimony of examined witnesses and experts and written findings and opinions of experts shall be admitted as evidence only if those witnesses and experts were cross-examined by the opposing party or the defense attorney or they were not cross-examined by the opposing party or the defense attorney although it was made possible, or if it is about the evidence referred to in Item e, Paragraph 2 of Article 268 of this Code. In that case, their testimony may be read at the hearing.

The provision referred to in Paragraph 2 of this Article shall not relate to privileged witnesses referred to in Article 147 of this Code.

2. Appeal against the Appellate Court's Decision

Article 324

General provision

(1) An appeal against the decision of appellate court is allowed to be filed with the higher court only if the appellate court has passed a sentence of long term imprisonment or if the appellate court has revised the trial court's sentence of acquittal so as to issue the guilty verdict.

(2) The appeal against the decision on appeal shall be reviewed by the higher court sitting in a panel in pursuance of provisions respecting the appellate procedure at appellate courts.

(3) Provisions of Article 315 shall be applied to the co-defendant who had no right to file an appeal against the decision on appeal.

2. An Appeal Against the Decision

Article 325

Appeals Permitted against the Decision

(1) The parties, the defense attorney and persons whose rights have been violated may always file an appeal against the decision of the court rendered in the first instance unless it is explicitly provided that an appeal is not allowed under this Code.
(2) An appeal is not allowed against any decision rendered during the investigation, unless this Code provides otherwise.
(3) A decision rendered in order to prepare the main trial and the verdict may be contested only in an appeal against the verdict.
(4) No appeal is allowed against a decision issued by the Supreme Court.

Article 326

General Deadline for Filing the Appeal

(1) An appeal shall be filed with the court which issued the decision.
(2) Unless this Code stipulates otherwise, an appeal against the procedural decision shall be filed within three days from the day the decision was served.

Article 327

Execution Suspended by an Appeal

Unless otherwise stipulated in this Code, filing an appeal against the decision shall stay the execution of the decision in question.

Article 328

Deciding the Appeal against the Decision Issued by Court of First Instance

(1) Unless otherwise stipulated in this Code, the panel of appellate court shall decide an appeal against the decision rendered by court of first instance. An appeal against a decision issued by the Supreme Court, as trial court, shall be decided by a different Panel of Supreme Court.
(2) The panel of the same court (Article 24, Paragraph 5) shall decide an appeal against the decision rendered by the preliminary proceedings and preliminary hearing judge.
(3) In deciding an appeal, in its decision the court may reject the appeal as late or inadmissible, may refuse the appeal as unfounded or may allow the appeal and revise the decision or revoke the decision and, if necessary, refer the case for retrial.

Article 329

Applying Provisions Appropriately on Appeal against the Verdict Issued by Court of First Instance

Provisions of Article 299, 301 and Paragraph 2 of Article 307, Paragraph 1 of Article 309, Article 313 and Article 315 of this Code shall be appropriately applied when deciding an appeal against the procedural decision.

Article 330

Applying Provisions of This Code Appropriately to Other Decisions

Unless otherwise stipulated under this Code, provisions of Article 325 and Article 329 of this Code shall be appropriately applied to all other procedural decisions rendered in accordance with this Code.

CHAPTER XXIV

EXTRAORDINARY LEGAL REMEDY

Reopening the Criminal Proceedings

Article 331

General Provision

Criminal proceedings that were completed with a finally binding decision or verdict may be repeated on the petition of an eligible or authorized person only in cases and under the conditions provided by this Code.

Article 332

Resumption of Criminal Proceedings and Reopening the Proceedings Concluded by a Finally Binding Decision

1) If criminal proceedings were dismissed by a finally binding decision or the charges were rejected by a finally binding verdict due to a lack of permission

otherwise required by this Code, the proceedings shall resume at the motion of the prosecutor upon termination of the reasons for rendering the aforesaid decision.

2) Except for the cases referred to in Paragraph 1 of this Article, if criminal proceedings was dismissed by a finally binding decision prior to the main trial, the criminal proceedings may be repeated on a petition of the prosecutor if new evidence is introduced enabling the court to ascertain that the conditions to reopen the criminal proceedings have been fulfilled.
3) Criminal proceedings that were dismissed by a finally binding decision prior to the commencement of the main trial may be reopened if the prosecutor dropped the charges and it is proven that the prosecutor dropped the charges in connection with the prosecutor's criminal official misconduct. The provision of Article 333, Paragraph 2 of this Code shall be applied when proving the criminal offense committed by the prosecutor.

Article 333

Reopening the Proceedings In Favour of the Accused

(1.) Criminal proceedings that were completed by a finally binding verdict may be reopened in favor of the accused:

a) if it is proven that the verdict was based on a false document or on the false testimony of a witness, expert or interpreter;
b) if it is proven that the verdict came about because of a criminal offense committed by the judge or person who performed the investigation;
c) if new facts are presented or new evidence submitted, which despite the due attention and cautiousness were not presented at the main trial, and which in themselves or in relation to the previous evidence would tend to bring about the acquittal of the person who has been convicted or his conviction under a more lenient criminal law;
d) if an individual has been tried more than once for the same criminal offense or if more than one person have been convicted of a criminal offense which could have been performed by only one person or by some of them;
e) if, in the case of a conviction for a continuous criminal offense or for another criminal offense that on the basis of the law covers several acts of the same kind or several acts of different kinds, new facts are presented or new evidence is submitted that shows that the accused did not commit the act included in the criminal offense he is convicted of, and the existence of those facts would have essentially affected the determination of punishment;
f) if the Constitutional Court of Bosnia and Herzegovina, the Human Rights Chamber or the European Court for Human Rights establishes that human rights and basic freedoms were violated during the proceedings and that the verdict was based on these violations;
g) if the Constitutional Court of Republika Srpska or Constitutional Court of Bosnia and Herzegovina has rescinded the legislation pursuant to which the finally binding verdict of guilty was passed.

(2) In the cases referred to in Items a) and b) of Paragraph 1 of this Article, it must be proven by a finally binding verdict that the persons in question were found guilty of the criminal offenses in question. If the proceedings against these persons could not be conducted because they have died or because circumstances exist which preclude criminal prosecution, the facts referred to in Items a) and b) of the Paragraph 1 of this Article may be established through other pieces of evidence as well.

Article 334

Reopening the Proceedings to the Detriment of the Accused

(1) Criminal proceedings may be reopened to the detriment of the accused if the verdict refusing the indictment was rendered due to the withdrawal of the prosecutor from prosecution, and it is proven that this withdrawal was brought about by criminal official misconduct of the prosecutor.
(2) In the case referred to in Paragraph 1 of this Article, the provision of Article 333, Paragraph 2, of this Code shall be applied.

Article 335

Persons Eligible to File a Motion

(1) A motion to reopen criminal proceedings may be filed by the parties and the defense attorney, and following the death of the accused the motion may be filed in his favor by the prosecutor and by the persons cited in Article 299, Paragraph 2, of this Code.
(2) A motion to reopen criminal proceedings in favor of a convicted person may be filed even after the convicted person has served his sentence and regardless of the statute of limitations, amnesty or pardon.
(3) If the court learns that a reason exists for reopening criminal proceedings, the court shall so inform the convicted person or the person who is eligible to file the motion on his behalf.

Article 336

Proceedings With Respect to the Motion

(1) The panel (Article 24, Paragraph 5) shall decide a motion to reopen criminal proceedings.
(2) The motion must cite the legal basis on which reopening of the proceedings is sought and the evidence to support the facts on which the motion is based. If the motion does not contain such data, the court shall call upon the movant to supplement the motion by a certain date.
(3) When deciding on a motion, a judge who participated in rendering the verdict in the previous proceedings shall be excluded from the panel.

Article 337

Deciding the Motion

(1) The court shall reject the motion in a decision if, on the basis of the motion itself and the record of the prior proceedings, it finds that the motion was filed by a person who is not eligible to file it or that there are no legal conditions for reopening the proceedings, or because the facts and evidence on which the motion is based have already been presented in a previous motion for reopening the proceedings that was refused by a finally binding decision of the court, or if the facts and evidence obviously are not adequate to provide a basis for reopening the proceedings, or if the applicant did not comply with Article 336, Paragraph 2, of this Code.
(2) Should the court not reject the motion, it shall serve a copy of the motion on the opposing party who has the right to answer the motion within eight days. When the court receives an answer or when the deadline for giving the answer is overdue, the presiding judge of the panel shall order a review of the facts and collection of the evidence cited in the motion and in the answer to the motion.

(3) After the review has been conducted, the court shall issue a decision in which it rules on the motion for reopening the proceedings.

Article 338

Permission to Reopen the Proceedings

(1) If the court does not order an extended review, after the prosecutor returns the documents, on the basis of the results of the review, the court shall grant the motion and allow the criminal proceedings to be reopened or the court shall reject the motion if it finds that the new evidence is not enough to reopen the criminal proceedings.
(2) If the court finds that there are grounds for allowing the proceedings to be reopened on behalf of the accused and also on behalf of the co-accused who did not file a motion to reopen the proceedings, the court shall *ex officio* proceed as though such motion had been filed for the co-accused.
(3) In the decision on reopening the criminal proceedings, the court shall order that a new main trial be scheduled immediately or that the case be returned to the investigative phase.
(4) If the motion to reopen criminal proceedings has been filed on behalf of a convicted person, and the court deems in view of the evidence submitted that in the reopened proceedings the convicted person may receive such a punishment that would call for his release, once time already served had been credited, or that he might be acquitted of the charge, or that the charge might be rejected, it shall order that execution of the verdict be postponed or terminated.
(5) When a decision allowing the reopening of criminal proceedings becomes finally binding, the execution of the penalty shall be stayed, but on the recommendation of the prosecutor the court shall order custody if the conditions exist as referred to in Article 189 of this Code.

Article 339

The Rules of the Reopened Proceedings

(1) The provision applicable to the previous proceedings shall also apply to the new reopened criminal proceedings that are being carried out on the basis of the decision to reopen the criminal proceedings. During the new proceedings, the court shall not be bound by the decisions rendered in the previous proceedings.
(2) If the new proceedings are suspended before the main trial commences, the court shall revoke the prior verdict by a decision on dismissing the proceedings.
(3) When the court renders a verdict in the new proceeding, the court shall pronounce that the prior verdict is being partially or in whole set aside, or shall pronounce that the prior verdict remains valid. When the court pronounces the new verdict, the court shall give the accused credit for time served in the sentence, and if reopening of the proceedings was ordered only to try some of the criminal offenses of which the accused has been convicted, the court shall pronounce a new total sentence.
(4) In the new proceedings, the court shall be bound by the prohibition set forth in Article 313 of this Code.

PART FOURTH

CHAPTER XXV

PROCEDURE FOR ISSUING THE WARRANT FOR PRONOUNCEMENT OF SENTENCE

Article 340

General Provision

(1) For criminal offenses for which the law prescribes a prison sentence up to five (5) years or a fine as the main sentence, for which the prosecutor has gathered enough evidence to provide grounds for the prosecutor's allegation that the suspect has committed the criminal offense, the prosecutor may request, in the indictment, from the court to issue a warrant for pronouncement of the sentence in which a certain sentence or measure shall be pronounced to the accused without holding the main hearing.
(2) The prosecutor may request one or more of the following criminal sanctions or measures to be pronounced: fine, suspended sentence, forfeiture of the proceeds of crime or forfeiture of property.
(3) A fine may be requested in an amount that shall not exceed 50,000 KM.

Article 341

Rejection of the Request to Issue a Warrant for Pronouncement of the Sentence

(1) The judge shall reject the request for issuing of a warrant for pronouncement of the sentence if he determines that grounds exist for joinder of the proceedings from Article 30 of this Code, if the criminal offense in question is such that this request may not be filed or if the prosecutor has requested a pronouncement of sentence or measure that is not allowed according to law.
(2) The panel referred to in Article 24, Paragraph 5 of this Code shall decide the prosecutor's appeal against the decision on rejection within 48 hours.
(3) If the judge considers that the information contained in the indictment does not provide sufficient grounds for issuing a warrant for pronouncement of the sentence, or that according to this information another sanction or measure may be expected other than the one requested by the prosecutor, the judge shall treat the indictment as if it has been submitted for confirmation and forward it for further procedure in accordance with this Code.

Article 342

Granting the Request to Issue the Warrant for the Pronouncement of the Sentence

(1) If the judge agrees with the request to issue the warrant for pronouncement of the sentence, the judge shall confirm the indictment and set a hearing.
(2) At the hearing the judge shall:
    a) ensure whether the right of the accused to be represented by the defense attorney is honored;
    b) ensure whether the accused understands the indictment and the prosecutor's request for a certain sentence or certain measures to be pronounced;
    c) present the accused with the evidence gathered by the prosecutor, and call upon the accused to make a statement regarding the evidence presented;
    d) call upon the accused upon to enter a plea of guilty or not guilty;

e) call upon the accused to make a statement upon the requested sentence or measures.

Article 343

Entering Plea and Issuance of the Warrant for Pronouncement of the Sentence

(1) If the accused pleads not guilty or raises any objections to the indictment, the judge shall schedule the main trial within 30 days, and forward the indictment for further procedure in accordance with this Code.
(2) If the accused pleads guilty, and accepts the sentence or measure proposed in the indictment, the judge shall first establish the guilt of the accused and than shall issue a warrant for pronouncing the sentence in accordance with the indictment.

Article 344

Contents of the Verdict and Right to Appeal

(1) The verdict by which the warrant for pronouncement of the sentence is issued shall contain the data referred to in Article 291 of this Code.
(2) The opinion of the verdict referred to in Paragraph 1 of this Article shall only state the reasons that justify the pronouncement of the verdict by which the warrant for pronouncing the sentence is issued.
(3) An appeal is allowed against the verdict referred to in Paragraph 1 of this Article and the appeal may be filed within eight days from the day of the delivery of the verdict.

Article 345

Service of the Verdict

(1) The verdict by which the warrant for pronouncement of the sentence is issued shall be delivered to the accused, his defense attorney and to the prosecutor.
(2) Payment of the fine before the expiration of the deadline for appeal is not considered to be a waiver of the right to appeal.

CHAPTER XXVI

JUVENILE PROCEDURE

1. General Provisions

Article 346

Application of Other Provisions of this Code to Juvenile Procedure

(1) The provisions of this Chapter shall apply in proceedings conducted against persons who were minors at the time when they committed a criminal offense and who had not reached the age of twenty-one (21) at the time proceedings were instituted or when those persons were tried. The other provisions of this Code shall apply to the extent that they do not conflict with the provisions of this Chapter.
(2) The provisions of Articles 348 through 350, Article 353 through 356, Article 361, Article 363, Article 365 and Article 372 of this Code shall apply in proceedings conducted against a young adult if, before the main trial commences, it is found that a correctional measure should properly be pronounced on that person in accordance with the Criminal Code, and by that date the person has not reached the age of twenty-one (21).

Article 347

Application of the Provisions to Children

When it is established in the course of the proceedings that at the time when the minor committed the criminal offense he had not reached the age of fourteen (14), the criminal proceedings shall be dismissed, and social welfare authorities shall be so informed.

Article 348

Circumspect Treatment

(1) When proceedings are undertaken that are attended by the minor, and especially when he is examined, the bodies participating in the proceedings must be circumspect, mindful of the mental development, sensitivity and personal characteristics of the minor, so that the conduct of the criminal proceedings will not have an adverse effect on the minor's development.
(2) The bodies who participate in the proceedings shall take appropriate actions to prevent any undisciplined behavior of the minor.

Article 349

Mandatory Defense

(1) A minor must have defense attorney from the outset of the preparatory proceedings.
(2) If the minor does not understand the language in which the criminal proceedings are being conducted, the court shall appoint an interpreter for him.
(3) If in the cases referred to in Paragraph 1 of this Article the minor himself, his legal representative or relatives do not retain a defense attorney, the judge for juveniles shall appoint him *ex officio*.

Article 350

Witnesses Relieved of the Duty to Testify (*Privilaged Witnesses*)

Parents of the minor, guardian, adoptive parents, social worker, priest confessor and defense attorney are exempted form the duty to testify concerning the circumstances necessary for evaluation of the mental development of a minor and for gaining familiarity with his personality and the conditions in which he lives.

Article 351

Joinder and Severance of Proceedings

(1) When a minor has participated in committing a criminal offense with an adult, separate proceedings shall be conducted against him, and its conduct shall conform to the provisions of this Chapter.
(2) The proceedings against a minor may be joined with the proceedings against an adult and conducted under the general provisions of this Code only if the joined proceedings are necessary for a full clarification of the case. The decision on this matter shall be made by the judge for juveniles upon the reasoned motion of the prosecutor. An appeal is not allowed against this decision.
(3) When joint proceedings are conducted against minor and adult perpetrators, the provisions of Article 348 through 350, Article 353 through 356, Articles 361, 363, 365, Article 359 and 371 of this Code shall always be applied with respect to the minor when matters pertaining to the minor are being clarified in the main trial, and Articles 372 and 378 of this Code as well as the other provisions of this

Chapter, shall be applied to the extent that it does not conflict the conduct of joint proceedings.

Article 352

Joinder of Proceedings

When a person has committed some criminal offense as a minor and some other criminal offense as an adult, joint proceedings shall be conducted pursuant to Article 30 of this Code before the panel that tries adults.

Article 353

The Role of the Social Welfare Authority in Charge of Juveniles

(1) In proceedings against minors, beside the authority exclusively provided by the provisions of this Chapter, the juvenile welfare authority shall have the right to be kept informed of the course of the proceedings, to make recommendations in the course of the proceedings and to point out the facts and evidence that are important to the rendering of a correct decision.
(2) The prosecutor shall notify the competent juvenile welfare authority of any proceedings instituted against a minor.

Article 354

Summons and Service of Court Papers

(1) A minor shall be summoned through his parents or legal representatives.
(2) Decisions and other court papers shall be served on a minor in accordance with the provisions of Article 82 of this Code, provided that process shall be not served on the minor through a bulletin board of the court, and the provision of the Article 78, Paragraph 2 shall not be applied.

Article 355

Publishing of the Course of the Criminal Proceedings

(1) Neither the course of criminal proceedings against a minor, nor the decision rendered in the proceedings may be made public, nor may the course of the proceedings be visually or audio recorded.
(2) A finally binding decision of the court may be published, but without stating the personal data of the minor that might serve as the basis for identifying the minor.

Article 356

Duty of Urgent Action

Authorities participating in the proceedings against a minor and other agencies and institutions from whom information, reports or opinions are sought must proceed with the greatest urgency so that the proceedings are completed as soon as possible.

Article 357

Composition of the Court

(1) The judge for juveniles, who directs preparatory proceedings and other actions when proceedings against juveniles, shall direct the first instance proceedings in accordance with this Code.
(2) The panel for juveniles, composed of three (3) judges, shall rule on appeals against the decision of the judge for juveniles in the cases provided for by this Code.

2. Instituting the Proceedings

Article 358

Application of the Principle of Opportunity

(1) For criminal offenses punishable by imprisonment up to three (3) years or a fine, the prosecutor may decide not to file the indictment even though there is evidence that the minor committed the criminal offense if the prosecutor feels that it would not be purposeful to conduct criminal proceedings against the minor in view of the nature of the criminal offense and the circumstances under which it was committed, the minor's previous life and his personal characteristics. In order to determine these circumstances, the prosecutor may seek information from parents or guardians of the minor and from other persons and institutions and when necessary, he may summon those persons and the minor to the prosecutor's office to obtain information in person. He may seek the opinion of the juvenile welfare authority concerning the purposefulness of conducting criminal proceedings against the minor.

(2) If there is a need to study the personal characteristics of the minor in order to make the decision referred to in Paragraph 1 of this Article, the prosecutor may in agreement with the juvenile welfare authority send the minor to a juvenile home or institution for evaluation or educational institution, but not to exceed 30 days.

(3) When a punishment or correctional measure is being executed, the prosecutor may decide not to bring a charge for another criminal offense committed by the minor if in view of the severity of that criminal offense and the punishment or correctional measure being executed, there would be no point to conduct criminal proceedings and pronounce punishment for that criminal offense.

(4) If in the cases referred to in Paragraphs 1 and 3 of this Article the prosecutor finds that it is not purposeful to conduct criminal proceedings against a minor, he shall so inform the juvenile welfare authority and the injured party, stating the grounds of his decision.

Article 359

Correctional Recommendations

The prosecutor shall consider whether the pronouncement of the correctional recommendations are possible and justified, in accordance with the Criminal Code, before he decides whether to file the motion for instituting the criminal proceedings against the minor for the criminal offense referred to in Article 358, Paragraph 1 of this Code.

3. Preparatory Proceedings

Article 360

Correctional Recommendations and Motion for Instituting the Preparatory Proceedings

(1) The prosecutor shall file the motion for instituting the preparatory proceedings with the judge for juveniles. The judge for juveniles shall consider whether pronouncement of the correctional measures is possible and justified, in accordance with the Criminal Code, before he decides whether he should admit the request referred to in Article 359 of this Code. If the judge decides to pronounce a correctional measure, the judge for juveniles may decide not to institute the proceedings against the minor. An appeal is not allowed against the decision of the judge for juveniles.

(2) Notwithstanding cases referred to in Paragraph 1 of this Article, if the judge for juveniles does not agree with the request for instituting the preparatory proceedings, the judge for juveniles shall request the panel for juveniles to decide the matter.
(3) The judge for juveniles may order the police to search a dwelling or to seize an object in accordance with this Code.

Article 361

Obtaining Data on Minor's Personality

(1) In the preparatory proceedings against a minor, along with the facts pertaining to the criminal offense, a specific determination shall be made of the minor's age and of the circumstances necessary to evaluate his mental development, and a study shall be made of the environment in which and conditions under which the minor lives and of other circumstances that have a bearing on his personality.
(2) In order to determine the circumstances from Paragraph 1 of this Article, the judge for juveniles shall obtain reports and hear the persons who can provide the necessary information.
(3) The judge for juveniles shall obtain information on the minor's personality. The judge for juveniles may request that information be gathered by a professional, including social worker, teacher of the handicapped, psychologist, but he may commission the social welfare authority to obtain such information.
(4) When it is necessary for the minor to be examined by experts in order to establish his state of health, mental development, mental characteristic or predisposition, physicians, psychologists or pedagogues shall be appointed for that examination. These examinations of the minor may be done in a medical or other institution.

Article 362

Persons Present at the Preparatory Proceedings

(1) The judge for juveniles himself shall decide the manner of conducting certain actions in accordance with the provisions of this Code to a degree that ensures the right of the minor to defense, the right of the injured party and obtaining evidence necessary for the decision.
(2) The prosecutor and the defense attorney may be present during the actions in the preparatory proceedings. When necessary, the examination of the minor shall be carried out by the pedagogue or another professional. The judge for juveniles may approve that the representative of the juvenile welfare authority, parent or the guardian of the minor be present in the preparatory proceedings. If the aforesaid persons are present during these actions, they may file motions and ask questions to person who is being examined.

Article 363

Placement of the Minor

(1) The judge for juveniles may order that the minor during the preparatory proceedings be placed in a juvenile home or similar institution, be placed under the care of the juvenile welfare authority or put in the care of another family if this is necessary to separate the minor from the environment in which he has been living or to provide the minor with aid, protection or a place to live.
(2) The costs of the minor's accommodation shall be paid in advance from the Budget and shall be included in the costs of the criminal proceedings.

Article 364

Ordering the Custody

(1) Exceptionally, the judge for juveniles may order that the minor be placed in custody when the reasons for the custody referred to in Article 189, Paragraph 2, Item a) through c) of this Code exist.
(2) Based on the decision on custody issued by the judge for juveniles, custody may not exceed 30 days. The panel for juveniles shall review the necessity of the custody every ten (10) days.
(3) The panel for juveniles may extend custody for two (2) more months if there are legal reasons for the extension.
(4) After completion of the preparatory proceedings, custody may last for six (6) more months at a maximum.

Article 365

Treatment of the Minor when in Custody

(1) Minors shall be separated from adults in custody.
(2) The judge for juveniles has the same authority regarding minors in custody as the judge for the preliminary proceedings or the preliminary hearing judge, pursuant to this Code, has regarding adults in custody.

Article 366

Reasoned Proposal

(1) After examining all circumstances related to the commission of the criminal offense and related to the minor’s personality, the judge for juveniles shall refer the documents to the prosecutor, who shall request, within eight (8) days, that the preparatory proceedings be supplemented or to file a reasoned proposal with the judge for juveniles for the pronouncement of punishment or correctional measures.
(2) It shall be considered that the prosecutor dismissed the charges if the prosecutor fails to request that the preparatory proceedings be supplemented or to file a reasoned proposal with the judge for juveniles for correctional measures or punishment of juvenile imprisonment within two (2) months from the day when the judge for juveniles referred the documents to the prosecutor.
(3) The prosecutor's proposal shall contain the following: the minor's first and last name, his age, a description of the criminal offense, the evidence indicating that the minor committed the criminal offense, an argument that must contain an assessment of the minor's mental development, and the recommendation that the minor be punished or that a correctional measure be pronounced against him.

Article 367

Dismissal of the Proceedings

(1) If during the preparatory proceedings, the prosecutor finds that there are no grounds for conducting proceedings against the minor or that the reasons referred to in Article 358, Paragraph 3 of this Code exist, the prosecutor shall file a motion to the judge for juveniles to dismiss the proceedings. The prosecutor shall inform the social welfare authority about the motion to dismiss the proceedings.
(2) If the judge for juveniles does not agree with the motion of the prosecutor, the judge for juveniles shall request the panel for juveniles to decide the matter.

Article 368

Control of the Proceedings

The judge for juveniles shall inform the President of the court every 15 days about which juvenile cases are not concluded and shall inform him about the reasons why certain cases are still pending. The President of the court shall, if necessary, undertake actions to speed up the proceedings.

4. Main Trial in Juvenile Criminal Roceedings

Article 369

Scheduling the Main Trial

(1) Upon receiving the motion from the prosecutor, the judge for juveniles shall schedule a hearing or the main trial.
(2) The punishment of the juvenile imprisonment and detention measures shall be pronounced only upon the completion of the main trial.
(3) The juvenile judge shall inform the minor about a correctional measure pronounced against him.

Article 370

Decision Making at the Main Trial

(1) When rendering a decision based on the main trial, the provisions of this Code related to the preparations for the main trial, the direction of the main trial, adjournment and recess of the main trial, the record and course of the main trial, shall be appropriately applied, but the judge for juveniles may depart from these rules if he considers that their application would not be purposeful in the specific case.
(2) The parents or guardian of the minor and the social welfare authority shall be summoned for the main trial beside the persons whose presence is mandatory. Failure of the parents, guardian or representative of the juvenile welfare authority to appear at the main trial shall not preclude the court from holding the main trial.
(3) Apart from the minor, the prosecutor who filed a motion referred to in Article 366 of this Code and the defense attorney must be present at the main trial.
(4) The provisions of this Code concerning amendment and supplement of the indictment shall also apply in proceedings against a minor, except that the judge for juveniles is authorized to render a decision without a recommendation of the prosecutor on the basis of an alteration in the state of facts in the main trial.

Article 371

Exclusion of the Public

(1) The public shall always be excluded when a minor is being tried.
(2) The judge for juveniles may allow the main trial to be attended by persons professionally concerned with the welfare and development of minors or with combating juvenile delinquency, as well as scientists.
(3) During the main trial, the judge for juveniles may order that all or certain persons be removed from the session except the prosecutor, defense attorney and the representative of the juvenile welfare authority.
(4) The judge for juveniles may order that the minor be removed from the session during the presentation of certain evidence or the oral presentation of the parties.

Article 372

Temporary Placement of the Minor

During the proceedings before the court, the juvenile judge may render a decision concerning temporary placement of the minor in an institution (Article 363), and he may also revoke a previous order to that effect.

Article 373

Scheduling the Main Trial and Rendering the Decision

(1) The judge for juveniles shall set the main trial or hold a hearing for the pronouncement of the correctional measure within eight (8) days from the date of receipt of the prosecutor's proposal or from the date when, at the hearing, the main trial is scheduled. For any extension of the deadline, the juvenile judge must have the approval of the President of the court.
(2) The main trial shall be adjourned or recessed only in exceptional cases. The judge for juveniles shall notify the President of the court of every adjournment or recess of the main trial and shall present the reasons for the adjournment or recess.
(3) The judge for juveniles must prepare the verdict or decision in writing within eight (8) days from the date of its announcement, and in exceptionally complex matters, within 15 days.

Article 374

The Decisions of the Judge for Juveniles

(1) The judge for juveniles is not bound by the recommendation of the prosecutor in rendering his decision as to whether it shall pronounce a punishment or a correctional measure against the minor, but if the prosecutor withdrew his recommendation, the judge for juveniles may not pronounce the punishment against the minor but only a correctional measure.
(2) The judge for juveniles shall issue a decision dismissing proceedings in cases when on the basis of Article 289, Item d) through f) of this Code the court issues a verdict rejecting the charges or acquitting the accused of the charges (Article 290) and when the judge for juveniles finds that it is not purposeful to pronounce either a punishment or a correctional measure against the minor.
(3) The judge for juveniles shall also issue a decision when he pronounces a correctional measure on the minor. The pronouncement of that decision shall state only which measure is being pronounced, but the minor shall not be declared guilty of the criminal offense with which the minor has been charged. The opinion of the decision shall contain a description of the criminal offense and the circumstances that justify pronouncement of the correctional measure.
(4) A verdict pronouncing punishment of the juvenile imprisonment against the minor shall be rendered in the form provided by Article 291 of this Code.

Article 375

Costs of the Proceedings and Property Claim

(1) The judge for juveniles may sentence the minor to pay the costs of criminal proceedings and the amount awarded on property claims (*restitution of property*) only if the judge for juveniles has passed a punishment of the juvenile imprisonment against the minor.

(2) If a correctional measure has been pronounced against the minor, the costs of proceedings shall be paid from the budget, and the injured party shall be advised to institute a civil action to satisfy his property claim.

5. Legal Remedies

Article 376

An Appeal against the Verdict and Against the Decision

(1) All persons who are eligible to appeal against the verdict (Article 299) may file an appeal against a verdict in which a penalty of the juvenile imprisonment was pronounced against a minor, against a decision in which a correctional measure was pronounced on a minor, and against a decision dismissing the proceedings (Article 374, Paragraph 2). This appeal may be filed within eight (8) days from the date of receipt of the verdict or decision.
(2) The defense attorney, the prosecutor, the spouse or cohabitee, lineal relative, adoptive parent, guardian, brother, sister and foster parent may file an appeal on a minor's behalf even against his will.
(3) An appeal against a decision pronouncing a correctional measure to be served in an institution, shall stay the execution of the decision, unless the judge for juveniles decides otherwise in agreement with the parents of the minor or appellant, and after questioning the minor.
(4) A minor and his defense attorney shall always be summoned for the session of the panel for juveniles (Article 302). Failure of the minor and his defense attorney to appear despite being duly summoned shall not preclude the second instance court from holding its session.

Article 377

Decisions of the Panel for Juveniles and Rule Against *Reformatio in Peius*

(1) The panel for juveniles may revise the first instance verdict by pronouncing more severe measures against the minor only if it is proposed in the prosecutor’s appeal.
(2) If the punishment of the juvenile imprisonment or detention measure is not pronounced in the first instance decision, the panel for juveniles may pronounce that measure or punishment only if the panel holds a hearing. Long-term juvenile imprisonment or a more serious detention measure from the one pronounced in the first instance decision, may be pronounced also at the session of the second instance Panel.

Article 378

Reopening the Criminal Proceedings

The provisions concerning the reopening of criminal proceedings that is ended with a finally binding verdict shall be appropriately applied to the reopening of proceedings that ended with a finally binding decision pronouncing a correctional measure or dismissing the case against a minor.

6. Supervision of the Court over the Execution of Measures

Article 379

A Report on Minor’s Behavior

1) The administration of an institution in which a correctional measure is executed against a minor must deliver to the court a report on the minor’s behavior every

two (2) months. The judge for juveniles may himself visit the minors who have been placed in that institution.

2) The judge for juveniles may obtain information through the juvenile welfare authority concerning the enforcement of other correctional measures, and he may order a particular professional (social worker, teacher of the handicapped) to do so.

7. Suspension of Execution and Amendment of the Decision 0n correctional measures

Article 380

Amending the Decision and Suspending the Execution

(1) When the conditions provided by the law have been met for amendment of a decision concerning a correctional measure that has been pronounced, a decision to this effect shall be rendered by the judge for juveniles who rendered the decision on the correctional measure if he finds that there is a need, or on the recommendation of the prosecutor, the warden of the institution or juvenile welfare authority under whose care the minor has been placed.
(2) Before rendering the decision, the judge for juveniles shall hear the prosecutor, the minor, the parents or guardian of the minor, and any other persons the judge considers necessary, and he shall also obtain the necessary reports from the institution in which the minor has been serving a detention measure and from juvenile welfare authorities or other agencies and institutions, as appropriate.
(3) A decision to suspend the execution of a correctional measure shall be rendered in accordance with the provisions of Paragraphs 1 and 2 of this Article.
(4) A decision to suspend or revise the correctional measures shall be rendered by judge for juveniles.

CHAPTER XXVII

PROCEEDINGS AGAINST A LEGAL PERSON

Article 381

Joinder of Proceedings

(1) A joinder of proceedings, as a general rule, shall be instituted and conducted against a legal person and the perpetrator for the same criminal offense.
(2) Proceedings against only a legal person may be instituted or conducted when it is not possible to institute or conduct the proceedings against the perpetrator because of the reasons provided by the law or when the proceedings against the perpetrator has already been conducted.
(3) In the joinder of proceedings against the indicted legal person and the indicted perpetrator, one indictment shall be brought and one verdict shall be pronounced.

Article 382

Purposefulness of Instituting the Proceedings

The prosecutor may decide not to request institution of the criminal proceedings against the legal person when the circumstances indicate that it would not be purposeful, because the contribution of the legal person to the commission of the criminal offense was insignificant or the legal person has no property or has so little that it would not be enough to cover the costs of the proceedings or if bankruptcy proceedings have been instituted against the legal person or if the perpetrator is the only owner of the legal person against whom the proceedings should be instituted.

Article 383

Representative of the Legal Person in the Criminal Proceedings

(1) Every legal person shall have a representative in the criminal proceedings and the representative is authorized to undertake all actions for which, under this Code, the suspect or the accused and the convicted person are also authorized.
(2) A legal person may have only one representative in the criminal proceedings.
(3) The court shall each time verify the identity of the representative and his authorization to represent the legal person.

Article 384

Appointing the Representative

(1) A representative of the legal person in the criminal proceedings is a person who is authorized to represent the legal person under the law, under an official act of the state body, under the corporate charter, articles of association or articles of incorporation or another act of the legal person.
(2) A representative may authorize someone else to represent the legal person. Authorization shall be given both in writing and orally in the court record.
(3) If the legal person ceased to exist before the finally binding verdict is rendered, the court shall appoint a representative for the legal person.

Article 385

Disqualification of the Representative

(1) A person who has been called to testify in the criminal proceedings may not be a representative of the legal person.
(2) A person against whom the proceedings are ongoing for the same criminal offense may not be a representative of the legal person in the criminal proceedings unless he is the only member of the legal person.
(3) In cases referred to in Paragraph 1 and 2 of this Article, the court shall request from the competent body of that legal person to appoint another representative within a certain period and to notify the court of the appointment in writing. Otherwise, the court shall appoint the representative.

Article 386

Service of Court Papers

Court papers addressed to the business enterprise shall be served on the legal person and on the representative.

Article 387

Costs of the Representative

Costs of the representative of the legal person in the criminal proceedings fall under the costs of the criminal proceedings. Costs of the representative appointed in accordance with Article 383 and Article 384 of this Code shall be paid in advance from the budget of the body that carries out the criminal proceedings only when the legal person has no assets.

Article 388

Defense Attorney of the Legal Person in the Criminal Proceedings

(1) A legal person may have a defense attorney in addition to a representative.

(2) A legal person and a physical person, as well as a suspect or an accused may not have the same defense attorney.

Article 389

Contents of the Indictment

The indictment against a legal person in criminal proceedings, besides the contents as stipulated by this Code, shall also include the name under which the legal person acts in legal dealings pursuant to the regulations, its location, a description of the criminal offense and the basis for the liability of that legal person.

Article 390

Trial and the Closing Argument

At the main trial, the accused shall be examined first and then the representative of the legal person.
Upon the completion of the evidentiary proceeding and the closing argument of the prosecutor and the injured party, the judge or the presiding judge of the panel shall give the floor to the defense attorney, then to the representative of the legal person, then to the defense attorney of the accused and finally to the accused.

Article 391

Verdict against the Legal Person

Beside the contents stipulated in the Article 291 of this Code, a written verdict shall contain the following:

a) In the introductory part of the verdict, there shall be the name under which the legal person acts in legal dealings pursuant to regulations and its address, as well as the first and the last name of its representative who was present at the main trial.
b) In the pronouncement of the verdict, there shall be the name under which the legal person acts in legal dealings pursuant to the regulations and its location, as well as the provisions of the law under which the legal person is indicted, released from charges or the provisions under which the charges have been dismissed.

Article 392

Interlocutory Orders

(1) In order to ensure enforcement of a punishment, forfeiture of property or forfeiture of the proceeds of crime, the court may issue an interlocutory order against a legal person, at the proposal of the prosecutor. In this case, the provisions of Article 112 of this Code shall apply.
(2) If there is a legitimate fear that an offense will be repeated within an indicted legal person and that the legal person will be responsible and if there is a threat that an offense will be committed, the court may in the same procedure, except for the orders under Paragraph 1 of this Article, impose a time restriction on the legal person to carry out one or more lines of work.
(3) When the criminal procedure is instituted against the legal person, the court may, at the proposal of the prosecutor, or *ex officio,* forbid status-related changes, the consequence of which would be deletion of the legal person from the court registry. The decision on this ban shall be registered in the court registry.

Article 393

Application of Other Provisions of this Code

Unless otherwise stipulated, the appropriate provisions of this Code shall be applied accordingly against the legal person even if the procedure is conducted only against the legal person.

CHAPTER XXVIII

SPECIFIC PROVISIONS GOVERNING JUDICIAL ADMONITION

Article 394

Judicial Admonition

(1) Judicial admonition shall be passed in a decision.

(2) The provisions of this Code respecting the judgment of conviction (guilty verdict) shall be applied appropriately to the decision on judicial admonition, unless this Chapter provides otherwise.

Article 395

Contents of the Decision on Admonition

(1) The decision on judicial admonition shall be rendered immediately after the conclusion of the main trial. The judge shall caution the accused that he will not receive a sentence for the criminal offense he committed because judicial admonition is expected to affect him so that he will not commit any criminal offense. If the decision is announced in the absence of the accused the caution shall be incorporated in the opinion of the decision. As to the waiver of the right to appeal and drafting of the decision, Articles 300(3) and 295(1) shall be applied accordingly.

(2) In the pronouncement of the decision on judicial admonition, besides personal details of the accused, only the fact that the judicial admonition is pronounced on the accused for the offence which is the cause of action and the legal title of the criminal offence shall be stated. The pronouncement of the decision on judicial admonition shall contain the data under Article 291(1)(d) and 291(1)(e) of the Code.

(3) The court shall state the reasons for delivering the judicial admonition in the opinion of the decision.

Article 396

Grounds for Contesting the Decision on Judicial Admonition

(1) The decision on judicial admonition may be contested on the grounds under Article 301 (a) through 301(c) of this Code as well as for the reason that the circumstances justifying the judicial admonition did not exist.

(2) If the decision on judicial admonition also contains a decision on security measure, forfeiture of the proceeds of crime, costs of criminal proceedings or a property claim, the decision may be contested on the grounds that the court did not properly issue the security measure or the order for forfeiture of the proceeds of crime or that the decision on costs of criminal proceedings or on the property claim was passed in contravention of legal provisions.

Article 397

Violations of Criminal Code

Besides violations under Article 304(a) through 304(d), the Criminal Code shall be deemed violated also when the decision on judicial admonition, security measure or forfeiture of the proceeds of crime has exceeded the court's jurisdiction.

Article 398

The Appellate Court's Decisions

(1) If the prosecutor has filed an appeal against the decision on judicial admonition to the detriment of the accused, the appellate court may render a guilty verdict and pass a sentence or a suspended sentence, if it finds that the trial court ascertained decisive facts correctly and that, with the proper application of law, a sentence or a suspended sentence can be passed.

(2) Deciding any appeal against the decision on judicial admonition, the appellate court may render a decision on dismissing the indictment or on acquitting the accused, if it finds that the trial court ascertained decisive facts correctly and that, with the proper application of law, one of the decision can be passed.

(3) When requirements under Article 319 of this Code are met, the appellate court shall issue the decision to refuse the appeal as ungrounded and to sustain the decision on judicial admonition rendered by the trial court.

PART V

CHAPTER XXIX

PROCEDURE FOR APPLICATION OF SECURITY MEASURES, FORFEITURE OF THE PROCEEDS OF CRIME AND REVOCATION OF SUSPENDED SENTENCE

Article 399

Suspension of the Proceedings in the Case of Mental Disorder

(1) If the accused becomes affected by such a mental disorder after the commission of the criminal offense that he or she is unable to stand trial, the court shall, upon psychiatric forensic examination, adjourn the procedure and send the accused to the body responsible for social welfare issues.
(2) When the health condition of the accused has improved to the extent to which he or she is able to stand trial, the proceedings shall resume.
(3) In case the criminal prosecution becomes time barred during the adjournment, the court shall act in accordance with Article 289, Item f) of this Code.

Article 400

Procedure in Case of Mental Incapacity

(1) If the suspect committed a criminal offense in the state of mental incapacity, the prosecutor shall propose in the indictment that the court should find that the accused committed a criminal offense in the state of incapacity and that the case should be referred to the body responsible for social welfare, for the purpose of commencing the appropriate procedure.
(2) If the evidence presented during the main trial indicates that the accused committed a criminal offense in the state of mental capacity, incapacity or diminished capacity, the prosecutor shall abandon the proposal he filed. In case of diminished capacity or incapacity, the prosecutor shall propose a security measure

of mandatory psychiatric treatment, pronounced along with another criminal sanction.

(3) In the case referred to in Paragraph 1 of this Article, the suspect or the accused in detention or in a psychiatric institution, shall not be released. Instead, the court shall, at the proposal of the prosecutor, issue a decision on a temporary custody of up to ten (10) days from the issuance of the decision. An appeal in not allowed against the decision.

(4) After the proposal referred to in Paragraph 1 of this Article has been filed, the suspect or accused must have his defense attorney.

Article 401

Procedure in Case of Obligatory Medical Treatment of Addiction

(1) The court shall decide the application of a security measure of obligatory treatment for addiction after it obtains findings and an opinion from a witness expert. The expert also must give an opinion on the possibilities for the treatment of the accused.

(2) If in pronouncing a suspended sentence, the perpetrator is ordered to receive treatment as an out-patient and he fails to undertake treatment or abandons it voluntarily, the court may, *ex officio*, or at the proposal of the institution in which the perpetrator was treated or should have been treated, after the hearing of the prosecutor and the perpetrator, revoke a suspended sentence or forceful enforcement of the pronounced measure of obligatory treatment from addiction. Before it issues a decision, the court shall also obtain a medical opinion, when needed.

Article 402

Forfeiture of Items

(1) The items that need to be forfeited under the Criminal Code shall be forfeited also when the criminal procedure is not completed by a verdict which declares the accused guilty, if this is required in the interests of general security. A separate decision shall be issued on this.

(2) The decision referred to in Paragraph 1 of this Article shall be issued by the court at the moment when the proceedings are concluded or dismissed.

(3) The decision on forfeiture of items referred to in Paragraph 1 of this Article shall be issued by the court when the verdict, which declares the accused guilty, fails to contain such a decision.

(4) A certified copy of the decision on forfeiture of items shall be delivered to the owner of the items concerned if the owner is known.

(5) The owner of the items may appeal the decision from Paragraphs 1, 2 and 3 of this Article on the grounds of non-existance of a legal basis for forfeiture of items.

Article 403

Forfeiture of the Proceeds of Crime (*Criminal Forfeiture*)

(1) The existance of proceeds of a criminal offense shall be established in a criminal procedure *ex officio*.

(2) The prosecutor shall be obliged to collect evidence during the procedure and examine the circumstances that are important for the assessment of the proceeds of a criminal offense.

(3) If the injured party submitted a claim for repossession of items obtained through a criminal offense, or the amount that is equivalent to the value of such items, the

existance of proceeds of crime shall be established only in the part that is not included in the property claim.

Article 404

Criminal Forfeiture Procedure

(1) When forfeiture of the proceeds of crime is a possibility, the person to whom the proceeds of crime are transferred and the representative of the legal person shall be summoned to the main trial for hearing. They shall be warned in the subpoena that the procedure may be conducted without their presence.
(2) A representative of the legal person shall be heard at the main trial after the accused. The same procedure shall apply to the person to whom the proceeds of crime were transferred if that person is not summoned as a witness.
(3) The person to whom the proceeds of crime are transferred as well as the representative of legal person shall be authorised to propose evidence in relation to the assessment of proceeds of crime and to question the accused, witnesses and expert witnesses upon approval by the judge or the presiding judge.
(4) The exclusion of the public at the main trial shall not refer to the person to whom the proceeds of crime are transferred and the representative of the legal person.
(5) If during the main trial the court establishes that the forfeiture of the proceeds of crime is a possibility, the court shall adjourn the main trial and shall summon the person to whom the proceeds of crime were transferred, and a representative of the legal person.

Article 405

Determination of the Value of Proceeds of Crime

The court shall determine the value of proceeds of crime by a free estimate if the assessment would involve disproportional difficulties or a significant delay of the procedure.

Article 406

Interlocutory Order

When the forfeiture of the proceeds of crime is a possibility, the court shall *ex officio* and under the provisions applicable to the judicial enforcement procedure issue an interlocutory order. In that case, the provisions of Article 112 of this Code shall apply.

Article 407

The Contents of the Decision that Pronounces a Measure of Forfeiture of Proceeds of Crime

(1) The forfeiture of the proceeds of crime may be ordered by court in a verdict by which the accused is found guilty, in a decision on judicial admonition and in a decision on application of a correctional measure and in the proceedings referred to in Article 400 of this Code.
(2) In the pronouncement of the verdict or decision, the court shall indicate what item or amount of money is to be forfeited.
(3) A certified copy of the verdict or the decision shall also be delivered to the person to whom the proceeds of crime are transferred and to the representative of the legal person, if the court ordered for forfeiture of the proceeds of crime from that person.

Article 408

Request for Reopening Proceedings with Respect to the Measure of Forfeiture of Proceeds of Crime

The person referred to in Article 404 of this Code may file a motion for reopening criminal proceedings related to the decision on forfeiture of the proceeds of crime.

Article 409

The Appropriate Application of the Provisions Regarding an Appeal

The provisions of Articles 300, Paragraphs 2 and 3 and Articles 308 and 323 of this Code shall be applied appropriately in reference to the appeal against the decision on forfeiture of the proceeds of crime.

Article 410

The Appropriate Application of Other Provisions of the Law

If the provisions of this Chapter do not stipulate otherwise, the procedure for application of security measures or forfeiture of the proceeds of crime *(criminal forfeiture)*, other relevant provisions of this Code shall be applied appropriately.

Article 411

Procedure to Revoke Suspended Sentence

(1) When a conviction provides that a suspended sentence will be executed if a convicted person fails to return the proceeds of crime, to compensate for damage or to meet other obligations, and the convicted person has failed to do so, the court shall conduct proceedings to revoke the suspended sentence at the proposal of the prosecutor or *ex officio*.
(2) The court shall be obliged to schedule a hearing in order to establish facts, to which it shall summon the prosecutor, convicted person and injured party.
(3) If the court establishes that the convicted person failed to meet obligations ordered in the verdict, it shall issue a verdict revoking the suspended sentence and order execution of the sentence, or set a new deadline for compliance with the obligations or lift the suspension. If the court finds that there are no grounds for taking any of the said decisions, it shall issue decision dismissing the proceedings to revoke the suspended sentence.

CHAPTER XXX

PROCEDURE FOR RENDERING DECISION ON EXPUNGEMENT OF RECORD OR TERMINATING SECURITY MEASURES AND LEGAL CONSEQUENCES OF A CONVICTION

Article 412

Decision on Expungement of Record

(1) When the law provides that a conviction shall be expunged after a specific period of time and under the condition that the convicted person has not committed any criminal offense during such period, the authority in charge of keeping criminal records shall issue *ex officio* a decision on expungement of record.
(2) It shall be necessary to conduct certain inquiries before the issuance of such decision on expungement of record, in particular to gather information as to any

criminal proceedings against the convicted person for a new criminal offense committed prior to the expiry of deadline provided for expungement of record.

Article 413

Motion of the Convicted Person for Expungement of Record

1) If the responsible authority has failed to issue a procedural decision on expungement of record, the convicted person may request that it be established as to whether the expungement of record came into force by operation of law.

2) If the responsible authority fails to meet the request of the convicted person within 30 days of the day of its receipt, the convicted person may request the court to issue a decision on expungement of record.

Article 414

Expungement of a Suspended Sentence by the Court

If a suspended sentence has not been revoked as long as one (1) year after the day when the inquiry was terminated, the court shall issue a decision ordering expungement of the suspended sentence. Such decision shall be delivered to the convicted person, prosecutor and authority in charge of keeping criminal records.

Article 415

Procedure of Expungement of Record on the Basis of a Court Decision

(1) The procedure of expungement of record in accordance with the provisions of the Criminal Code shall be instituted at the motion of the convicted.
(2) Such motion shall be submitted to the court.
(3) A judge assigned for such purpose shall schedule and conduct a hearing of the prosecutor and convicted person.
(4) The judge may request the police authorities to provide him with a report on the conduct of the convicted person, or he can request such report from the management of the facility where the convicted person has served his sentence.
(5) The applicant and prosecutor may file an appeal against a decision that the court has taken on the motion for expungment of record.
(6) If the court rejects the motion on the grounds that the convicted person has not deserved it based on his conduct, the convicted person may resubmit his motion upon the expiry of one (1) year of the day when procedural decision rejecting the motion became finally binding.

Article 416

Criminal Record Certificate Certificate on Criminal Records

A criminal record certificate that is issued to citizens on the basis of criminal records shall not mention any convictions or legal consequences that were expunged.

Article 417

Motion and Procedure to Terminate a Security Measure

(1) A motion for termination of the security measures prescribed in the Criminal Code and other measures prescribed by the law shall be submitted to the court.
(2) A judge assigned for such purpose shall conduct a preliminary inquiry as to whether the required period of time provided for by the law has expired, he shall than schedule and conduct hearings in order to establish facts to which the applicant referred. The judge shall summon the prosecutor and applicant.

(3) The judge under Paragraph 2 of this Article may also request from the police authority or facility where the convicted person served his sentence a report as to the conduct of the convicted person.
(4) If the motion has been rejected, no new motion may be submitted before the expiry of one (1) year of the day when the procedural decision rejecting the previous motion became finally binding.

CHAPTER XXXI

PROCEDURE TO RENDER INTERNATIONAL LEGAL ASSISTANCE AND TO ENFORCE INTERNATIONAL AGREEMENTS IN CRIMINAL MATTERS

Article 418

General Provisions

International assistance in criminal matters shall be rendered under the provisions of this Code, unless otherwise prescribed by the legislation of Bosnia and Herzegovina or an international agreement.

Article 419

Communication of a Request for Legal Assistance

Requests of the court or the prosecutor for legal assistance in criminal matters shall be communicated to foreign authorities by diplomatic channels by the court or the prosecutor through the Ministry of Justice of Republika Srpska to send them to the Ministry of Justice of Bosnia and Herzegovina. Foreign authorities shall send the letters of request to courts of Republika Srpska in the same manner.

Article 420

Actions Following the Request of Foreign Authorities

(1) When the Ministry of Justice of Republika Srpska receives a request of a foreign authority for legal assistance, it shall communicate such request to the prosecutor.
(2) The prosecutor and the court shall decide as to the permissibility of and manner to carry out actions requested by the foreign authority in accordance with the legislation.

Article 421

Execution of the Verdict Rendered by Foreign Court

(1) The court shall not act on the request of a foreign body in which it seeks the execution of a verdict rendered by a foreign court.
(2) Notwithstanding Paragraph 1 of this Article, the court shall execute foreign finally binding verdicts with respect to a sanction pronounced by the foreign court if it is so stipulated by international agreement, and if the sanction is also pronounced by the court in accordance with the criminal legislation of Republika Srpska.
(3) The panel referred to in Paragraph 5 of Article 24 of this Code shall render a verdict. .
(4) Territorial jurisdiction shall be established according to the convict’s last domicile in Republika Srpska or, if the convict has not had domicile in Republika Srpska, according to the place of birth. If the convict has not had domicile in Republika Srpska nor was he born in Republika Srpska, the Supreme Court shall designate the case to one of the courts having subject-matter jurisdiction.

(5) The court having subject-matter jurisdiction shall be the court defined by law.
(6) In the pronouncement of the verdict referred to in Paragraph 3 of this Article, the court shall incorporate the complete pronouncement of the foreign court's verdict and the name of the foreign court and shall pronounce a sanction. In the explanation of the verdict, the court shall present its reasons when pronouncing the sanction.
(7) The prosecutor and convicted person or his defense attorney may file an appeal in accordance with this Code against the verdict referred to in Paragraph 4 of this Article.
(8) If an alien, convicted by the domestic court, or the person authorized by the agreement, files a motion with the court that the convicted person be allowed to serve the sentence in his home country, the court shall act in accordance with the international agreement.

Article 422

Centralization of Data

The court shall be obliged to communicate, without delay, to the competent Ministry of Bosnia and Herzegovina information on any criminal offense and perpetrator as well as any valid verdict concerning criminal offenses of production and circulation of counterfeit money, unauthorized production, processing and trade of drugs and poison, human trafficking, dissemination of pornography as well as other criminal offenses for which international agreements provides for the centralization of data. As regards criminal offenses of money laundering or cases involving a criminal offense relating to money laundering, information must also be delivered without delay to the Bosnia and Herzegovina authority responsible for prevention of money laundering.

Article 423

Relinquishing Prosecution to a Foreign State

(1) If a criminal offense was committed in the territory of Republika Srpska by an alien who has his permanent residence in a foreign state, it is possible to cede all criminal files for the purpose of prosecution and trial to such country beyond any requirements for extradition provided for, if such state is not opposed thereto.
(2) Relinquishment of prosecution and criminal action is not permitted if in that case the alien might be subjected to unfair trial, inhuman and humiliating treatment or punishment.
(3) The prosecutor shall take a decision on relinquishment before the indictment has been issued. After the issuance of the indictment until the case is referred to the judge or to the panel for the purpose of scheduling the main trial, such decision shall be taken by the preliminary hearing judge at the proposal of the prosecutor.
(4) Relinquishment may be authorized with respect to criminal offenses punishable by a sentence of imprisonment of up to ten (10) years and criminal ofenses against traffic security.
(5) If the injured party in the case is a citizen of Republika Srpska/Bosnia and Herzegovina such relinquishment shall not be allowed if the said citizen is opposed thereto, unless a security was deposited to guarantee enforcement of the injured party's property claim.

Article 424

Taking Over the Prosecution

(1) A request of a foreign state to institute and pursue criminal action against a citizen of Republika Srpska/Bosnia and Herzegovina, who has domicile in Republika Srpska, for a criminal offense committed abroad shall be delivered together with the pertaining file to the competent prosecutor in whose territory the domicile is located.
(2) If a property claim has been submitted to the responsible authority of a foreign state, the same procedure shall apply as if the claim had been submitted to the court.
(3) The foreign state that submitted the request shall be informed of any decision refusing to carry on prosecution as well as of any finally binding decision rendered in the criminal proceedings.

CHAPTER XXXII

PROCEDURE FOR COMPENSATION FOR DAMAGE, REHABILITATION OF REPUTATION AND OTHER RIGHTS OF PERSONS SUBJECT TO MISCARRIAGE OF JUSTICE

Article 425

Compensation for Damage Caused by Unjust Conviction

(1) A person against whom an effective criminal sanction was pronounced or who was found guilty, but exonerated from the sanction, and later, based on extraordinary remedy, new proceedings were effectively suspended or a finally binding verdict was pronounced acquitting the person of charges, or the charges were rejected, shall be entitled to compensation for damage on grounds of unjust conviction, except in the following cases:
   a) if the suspension of proceedings or the verdict rejecting the charges resulted from the prosecutor dismissing the prosecution in the new proceedings, and the dismissal took place on the basis of a plea bargain;
   b) if in the new proceedings a verdict was pronounced rejecting the charges due to court's not having jurisdiction and the authorized prosecutor instituted prosecution before a competent court.
(2) A convicted person shall not be entitled to compensation for damage if he intentionally brought about his own conviction by false admission or in another way, unless he was forced to that.
(3) In case of conviction for joinder of crimes, the right to compensation for damage may also refer to individual criminal offenses when the conditions for awarding damages are met.

Article 426

Application of Statute of Limitations to Claims for Damages

(1) The statute of limitations provide that claims for damages shall be barred after three (3) years from the effective date of the original verdict acquitting the accused or dismissing the charges, or the finally binding decision dismissing the proceedings, and if an appeal was filed to the appellate court, from the day of receipt of that court's decision.

(2) Before submitting a claim for damages to the court, the injured person shall be obliged to file his claim with the Ministry of Justice, for the purpose of agreeing on existence of injury and the kind and amount of damages.
(3) In the case referred to in Article 425, Paragraph 1 of this Code, the claim may be decided only if the authorized prosecutor did not institute prosecution before a competent court within three (3) months from the day of receipt of the finally binding verdict.

Article 427

Filing Claims for Damages to Competent Court

1) If the claim for damages is not granted or the Ministry of Justice fails to make its decision within three (3) months from the day the claim was filed, the injured party may file the claim for damages with the competent court. If an agreement is reached to satisfy a part of the claim only, the injured party may file a petition with regard to the rest of the claim.
2) While the action for damages under Paragraph 1 of this Article is pending the time limit under Article 426 of this law shall not run.
3) Claims for the damages shall be filed against Republika Srpska.

Article 428

Right of Heirs to Compensation of Damage

(1) The heirs of the injured party shall inherit only the right of the injured party to compensation for damaged property. If a claim has already been filed by the injured party, the heirs may continue the proceedings only within the limits of the already filed claim for damages.
(2) The heirs of the injured party, after his death, may continue action for damages, or initiate such proceedings in case the injured party died before the time limit under statute of limitations ran out and did not renounce the claim.

Article 429

Persons Entitled to Damages

(1) The following persons shall be entitled to damages:
   a) a person who was in detention, but criminal proceedings were not initiated or proceedings were suspended or a finally binding verdict was pronounced acquitting the person of charges or charges were rejected;
   b) a person who served a sentence of imprisonment, and received a shorter imprisonment sentence in reopened criminal proceedings than the sentence he had served, or received a criminal sanction other than imprisonment or he was found guilty but exonerated from any sanction;
   c) a person who was subjected to unlawful detention or retained in detention or prison due to a mistake;
   d) a person who was kept in detention longer than the prison term to which he was sentenced is.
(2) A person who was imprisoned without a legal ground under Article 196 of this law is entitled to damages if no pre-trial detention was ordered against him or the time for which he was imprisoned was not included in the sentence pronounced for a criminal offense or minor offense.
(3) A person who caused imprisonment by his own unlawful acts shall not be entitled to damages. In cases referred to in Item a) of Paragraph 1 of this Article, the right to damages shall not apply notwithstanding the existence of circumstances

referred to in Article 425, Paragraph 1, items a) and b) or if the proceedings were suspended pursuant to Article 207 of this Code.

(4) In the action for damages, in the cases referred to in Paragraphs 1 and 2 of this Article, the provisions of this Chapter shall apply accordingly.

Article 430

Compensation for Damage Inflicted by Media

1) If a case involving unjust conviction or unlawful detention of a person was covered by media, inflicting damage upon the reputation of that person, the court shall, at the person's request, publish in newspapers or other media a statement on its decision confirming that the previous conviction was a miscarriage of justice and the detention was unlawful. If the case was not covered by media, such a statement shall, at the request of that person, be provided to the authority, or another legal person in which the person works, and to a political party or civil association, if that is required for the person's rehabilitation of reputation.
2) After a convicted person dies, his spouse or cohabitatee, children, parents, brothers and sisters shall be entitled to file such a claim.
3) The claim referred to in Paragraph 1 of this Article may be filed even if no claim for damages was filed.
4) Notwithstanding the requirements provided for in Article 425 of this Code, the claim referred to in Paragraph 1 of this Article may be filed in case the legal classification of the act changed by use of an extraordinary remedy, in case the reputation of the convicted person was more severely damaged by the legal qualification in the previous verdict.
5) The claim referred to in Paragraphs 1 to 3 of this Article shall be filed to the court within six (6) months (Article 426, Paragraph 1). The claim shall be decided upon by the panel (Article 24, Paragraph 5). In deciding the claim, provisions of Article 425, Paragraphs 2 and 3, and Article 429, Paragraph 3 of this Code shall apply accordingly.

Article 431

Rehabilitation of Reputation

The trial court shall, *ex officio*, issue a decision annulling the registration of an unjust conviction in the criminal records. The decision shall be submitted to an authority competent for keeping criminal records. No data on annulled records may be given to anybody.

Article 432

Ban on Use of Data

Any person who in any way gains access to data pertaining to an unjust conviction or unlawful detention shall not use such data in a way that would be damaging to the rehabilitation of a person against whom the criminal proceedings were conducted.

Article 433

Right to Compensation for Damage With Respect to Employment

(1) The period of time, during which a person's employment was terminated and he lost the status of social insurance holder due to an unjust conviction or unlawful detention, shall be recognized as the period of pensionable years of service, i.e. years of insurance coverage, as if he had spent it working. The period of time of unemployment effected by unjust conviction or unlawful detention, which was not

the fault of the person in question, shall also be counted as pensionable years of service/ years of insurance coverage.

(2) When deciding on any right that is affected by the length of years of service or years of insurance coverage, the responsible body or legal person shall also take into account the pensionable years of service/years of insurance coverage recognized in the provisions of Paragraph 1 of this Article.

(3) If the responsible body or legal person referred to in Paragraph 2 of this Article fails to take into account the pensionable years of service/years of insurance coverage recognized in the provision of Paragraph 1 of this Article, the injured party may request that the court under Article 427, Paragraph 1, determine whether the recognition of this period of time was made in accordance with the law. The lawsuit shall be filed against the body or legal person that is disputing the recognized pensionable years of service/years of insurance coverage, and against Republika Srpska (Article 427, Paragraph 3).

(4) At the request of the body or legal person in which the right under Paragraph 2 of this Article is exercised, statutory contributions for the years of service recognized under the provision of Paragraph 1 of this Article shall be paid from the budget (Article 427, Paragraph 3).

(5) The pensionable years of service/years of insurance coverage recognized in pusuance of the provision in Paragraph 1 of this Article shall be added in full to the pensionable years of service.

CHAPTER XXXIII

PROCEDURE FOR ISSUANCE OF ARREST WARRANTS AND NOTIFICATIONS

Article 434

Searching for Address

If the permanent or temporary residence of the suspect or the accused is not known, the prosecutor or the court shall, if necessary under the provisions of this Code, request that the police authorities search for the suspect or the accused and inform the prosecutor or the court of his address.

Article 435

Requirements for Issuance of Arrest Warrants

(1) Issuance of an arrest warrant may be ordered if the suspect or the accused against whom criminal proceedings have been instituted for a criminal offense punishable by a prison sentence of three (3) years or more is a fugitive from justice, and an order for his apprehension or a decision ordering his detention has been issued.

(2) Issuance of an arrest warrant shall be ordered by the court.

(3) Issuance of an arrest warrant shall also be ordered in case a convicted person escapes from the institution in which he is serving a sentence regardless of its length, or in case of his escape from an institution in which he is serving a detention measure related to apprehension. In such a case, the warden of the institution shall issue the order.

(4) Order of the court or warden for issuance of an arrest warrant shall be submitted to the police authorities for the purpose of its execution.

Article 436

Issuance of Notification

(1) If data and information about instruments related to the criminal offense are necessary, or if these instruments need to be identified, particularly if this is necessary for the purpose of verification of the identity of an unidentified corpse, the issuance of notification requesting that the data or information be submitted to the body conducting the proceedings shall be ordered.
(2) Police authorities may publish photographs of corpses and missing persons if there are grounds for suspecting that the deaths or disappearances of these persons were caused by a criminal offense.

Article 437

Withdrawal of Warrant or Notification

The body that ordered the issuance of an arrest warrant or notification is obliged to immediately withdraw it if the wanted person or item is found or if the statute of limitations for criminal prosecution or for serving the sentence applies, or for other reasons that make the warrant or notification unnecessary.

Article 438

Who Issues an Arrest Warrant or Notification

(1) Warrants and notifications are issued by the responsible police body designated by the court in each individual case, or the institution from which the person has escaped where he was serving a sentence or was institutionalized.
(2) If it is likely that the person, after whom the warrant has been issued, is abroad, the competent Ministry of Bosnia and Herzegovina may issue an international warrant.

CHAPTER XXXIV

TRANSITIONAL AND FINAL PROVISIONS

Article 439

Insufficent Number of Judges

(1) If a trial court cannot establish the panel under Article 24, Paragraph 5 of this Code due to an insufficient number of judges, a panel of the higher court shall exercise powers and competences of the panel, unless Paragraphs 2 and 3 of this article provide otherwise.
(2)After the indictment has been filed and the prosecutor heard, the presiding judge or a single trial judge shall order the detention or release of the accused or suspect and at the main trial it shall be done by the panel.
(3) The judge sitting on trial court shall decide a motion for reopening criminal proceeding (Article 336, Paragraph 1).

Article 440

Extraordinary Remedies

The proceedings, where applications for extraordinary remedies for finally binding verdicts or where requests for extraordinary reduction of sentence were filed, shall continue and conclude pursuant to the Law on Criminal Procedure (SFRY Official Gazette Nos. 26/68, 74/87, 57/89 and 3/90) as amended by subsequent amendments published in RS Official Gazette Nos. 4/93, 26/93, 14/94, 6/97 and 61/01.

Article 441

Counting Deadlines

(1) If on the effective date of this law a deadline has been running, the deadline shall be counted anew in compliance with this Code unless the previously set time limit is longer.

(2) The provisions of Article 194, Paragraphs 1 and 3, of this Code respecting time limits of detention shall be applied in criminal actions instituted after the effective date of this Code.

Article 442

Adjudication of Earlier Filed Cases

1) The criminal proceedings that were instituted in the courts before the effective date of this Code shall continue in pursuance of this Code, unless this Article provides otherwise.

2) The criminal cases under Paragraph 1 of this Code under investigation shall be delivered to the prosecutor immediately or, if some investigative actions are being carried out, within 8 days after the effective date of this Code.

3) The criminal cases under Paragraph 1 of this Code in which the indictment has been confirmed shall continue in pursuance of the previous Code, unless this Chapter provides otherwise.

4) The criminal cases falling under the jurisdiction of the Court of Bosnia and Herzegovina, which were filed with the courts before the effective date of this Code and in which the indictment has been confirmed, shall be concluded by the courts in pursuance of the previous Code. The criminal cases falling under the jurisdiction of the Court of Bosnia and Herzegovina, which were filed with the courts/prosecutors, and in which the indictment has not been confirmed, shall be concluded by the courts in pursuance of this Code, unless, ex officio or on the reasoned motion of the parties or defence attorney, the Court of Bosnia and Herzegovina decides to take over such cases.

5) The criminal cases under Paragraph 3 of this Code in which only request for prosecution was filed shall continue in pursuance of the previous Code, unless this Chapter provides otherwise.

6) The criminal cases that were instituted at higher courts before the effective date of this Code, in which the classification of criminal offences or a change of venue due to change of subject matter jurisdiction is projected, shall be concluded by the higher courts.

Article 443

The Right of Private Prosecutor and the Injured Party As Prosecutor

(1) The criminal proceedings that were instituted by a private complaint, indictment or request for prosecution filed by the injured party as prosecutor before the effective date of this Code shall continue in pursuance of the previous Code, unless this Chapter provides otherwise.

(2) The investigation of cases under Paragraph 1 of this Article shall be suspended by the court's decision and the injured party as prosecutor shall be informed about it within 8 days. The injured party is entitled to file the request for prosecution to the prosecutor within 8 days after receipt of the information. If the prosecutor does not institute criminal proceedings within 15 days he shall inform the court about it to dismiss the proceedings.

Article 444

Trial In Absentia

1) If a decision on a trial in absentia was issued before the effective date of this Code, a decision on the adjournment of the trial shall be issued. When the reasons for the adjournment cease to exist the trial shall resume in pursuance of this Code.
2) If a verdict was rendered in a trial in absentia before the effective date of this Code, the proceedings shall conclude in pursuance of the previous Code unless this Chapter provides otherwise.

Article 445

Applications for Protection of Legality

1) The proceedings, in which an application for protection of legality was filed or a deadline for filing an application for protection of legality was running and the application was filed in compliance with it, shall continue and conclude in pursuance of the previous legislation.

2) The RS Chief Prosecutor may file an application for protection of legality within the same time limit applicable to the convicted person and his attorney under the previous legislation.

3) If a verdict is overulled in an appellate proceeding or through extraordinary remedy, the proceedings shall continue and conclude in pursuance of Article 442(3) and 442(5) of this Code.

Article 446

Powers of Judicial Police

Until the judicial police are established, the powers of the judicial police prescribed by this Code shall be exercised by the police authorities.

Article 447

Rule Against Reopening Criminal Proceedings

1) The right to reopen criminal proceeding concluded with a finally binding verdict before 1 January 1954 will be governed in a separate law. Until then, Article 6 of the Introductory Law to the Criminal Procedure Code (FNRY Official Gazette 40/53) shall apply.
2) As to damages for miscarriage of justice and unlawful arrest and detention, Article 7 of the Introductory Law to the Criminal Procedure Code (FNRY Official Gazette 40/53) shall apply even after the effective date of this Code, unless the law under Paragraph 1 of this law provides otherwise.

Article 448

Adoption of By-laws

By-laws provided for in this Code shall be adopted within 90 days from the date of entry into force of this Code.

Article 449

Cessation of Application of the Previous Code

On the effective date of this Code the Code on Criminal Procedure – Consolidated text (SFRJ Official Gazette 26/86, 74/87, 57/89 and 3/90) shall cease from applying in the territory of Republika Srpska. On the same date the amendments to the Code published in the SR Official Gazette 4/93, 26/93, 14/94, 6/97 and 61/01 shall cease from applying.

Article 450

Entry into Force of the Law

This Code shall enter into force on July 1, 2003.