

(Official Gazette of the Federation of Bosnia and Herzegovina no. 9/09)

Pursuant to Article IV B 7 a) (IV) of the Constitution of the Federation of Bosnia and Herzegovina, hereby I enact the following

DECREE

PROMULGATING THE LAW ON AMENDMENTS TO THE CRIMINAL PROCEDURE CODE OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

This is to promulgate the Law on Amendments to the Criminal Procedure Code of the Federation of Bosnia and Herzegovina, as enacted by the Parliament of the Federation at the session of the House of Representatives on 23 September 2008 and the session of the House of Peoples on 20 November 2008.

Number 01-02-48/09
30 January 2009,
Sarajevo

Chairwoman
Borjana Krišto, m.p.

LAW

ON AMENDMENTS TO THE CRIMINAL PROCEDURE CODE OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

Article 1

In the Criminal Procedure Code of the Federation of Bosnia and Herzegovina (“Official Gazette of the FBiH” nos. 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07 and 53/07), the title of the Article shall be amended to read: “Application of Rules of Criminal Procedure”.

Article 2

In Article 5, Paragraph 2, after the word: “statement”, the words: “nor respond to questions asked” shall be added.

Article 3

In Article 6, Paragraph 1, after the word: “him”, the words: “and that statement of his may be used as evidence in further proceeding” shall be added.

Article 4

In Article 9, Paragraph 2, the words: “their own language in the course of the proceedings” shall be replaced with the words: “mother tongue or the language they understand”.

Article 5

(1) In Article 10, Paragraph 2, the words: “Indictments, appeals, and other court documents shall be submitted” shall be replaced with the words: “Documents shall be submitted”.

(2) In Paragraph 3, the words: “in the language used by the person in question in the proceedings” shall be replaced with the words: “mother tongue or the language they understand”.

Article 6

In Article 15 a new Paragraph 1 shall be added to read:

“(1) The Court shall treat equally the parties and the defence attorney and provide each party an equal opportunity with regards to the access to the evidences and presenting them at the main trial.”

Current Paragraph 1 shall become Paragraph 2.

Article 7

(1) In Article 21, Paragraph 1, in item g) the new sentence shall be added to read: “Expert associates as well as investigators working for the Prosecutor’s Office under the authorization of the Prosecutor shall also be considered as authorized officials.”

(2) After Item t) the new items u) and v) shall be added to read:

“u) The term “computer system” is any device or a group of mutually connected or linked devices, out of which one or more are automatically processing data on the basis of a programme;

v) The term “computer data” denotes any presentation of facts, information or concepts in a form suitable for processing in a computer system, including any programme that is able to cause the computer system to execute certain function.”

Article 8

In Article 25, Paragraph 2, the word: “five” shall be replaced with the word: “ten”.

Article 9

In Article 33, Paragraph 2, the word: “questioning” shall be replaced with the word: “hearing”.

Article 10

In Article 34, Paragraph 1, the word: “questioning” shall be replaced with the word: “hearing”. (Translator’s remark: N/A to English version)

Article 11

(1) In the title of Article 40, the words: “or Defence Attorney” shall be added after the word: “Parties”.

(2) In Paragraph 2, the words: “Item a) to c) shall be replaced with the words: “Item a) to e)”.

Article 12

In Article 44, Paragraph 3, after the word: “judge”, a comma and the words: “and until the indictment is filed, the Prosecutor” shall be added.

Article 13

(1) In Article 45, Paragraph 2, Item c), the word: “law” shall be replaced with the words: “Article 98 of this Law”.

(2) In Paragraph 2, after Item f) a new Item g) shall be added to read:

“g) To establish facts necessary for deciding claim under property law in accordance with Article 211 and for forfeiture of property gain obtained by commission of criminal offense in accordance with Article 413 of this Code”.

(3) Current items g) through j) shall become items h) through k).

Article 14

In Article 55, Paragraph 2, after the word: “summoned” the words: “or heard” shall be added.

Article 15

(1) In Article 59, Paragraph 2, the words: “immediately after he has been assigned to pre-trial custody” shall be replaced with the words: “while deciding the proposal for ordering pre-trial custody”.

(2) In Paragraph 5, the word: “or” were replaced with a comma, and after the word: “accused”, the words: “or the other circumstances” shall be added.

Article 16

In Article 60, after Paragraph 2, a new Paragraph 3 shall be added to read:

“(3) The Request for Appointment of a Defence Attorney due to adverse financial situation shall be recorded in the case file. After having established the financial situation of the suspect or accused, the Court shall issue a decision on the request without delay.”

Article 17

(1) In Article 61, Paragraph 2 shall be amended to read:

“(2) Notwithstanding Paragraph 1 of this Article, the Prosecutor shall submit with a request for ordering custody to the preliminary proceedings judge or preliminary hearing judge evidence relevant for assessment of lawfulness of custody also for the purpose of informing the defence attorney.”

(2) In Paragraph 3, the words: “the defense attorney of the suspect or accused has” shall be replaced with the words: “the suspect, accused or defence attorney have”.

(3) In Paragraph 4, the words: “the preliminary proceedings judge, judge” shall be replaced with the words: “suspect or the accused”.

(4) In Paragraph 5, after the words: “the defense attorney” the words: “suspect or the accused” shall be added.

Article 18

In Article 65, paragraph (2) shall be amended to read:

“(2) Search of personal property pursuant to Paragraph (1) of this Article shall include a search of the computer systems, devices for computer and electronic data storage and mobile phone devices. Persons using such devices shall be obligated to allow access to them, to hand over the media with saved data, as well as to provide necessary information concerning the use of the devices. A person who refuses to do so may be punished under the provision of Article 79 Paragraph (5) of this Code.”

Article 19

(1) In the title of Article 70, after the word: “Warrant” the words: “for a Search” shall be added.

(2) In Paragraph 1 the words: “a preliminary proceedings judge” shall be replaced with the words: “the court”.

(3) Paragraph (2) shall be amended to read:

“(2) If an oral request for a search warrant is filed, the Court shall record the further course of communication. If an audio recording device is used or a stenographic record made, the record shall be sent to transcription within 24 hours, its accuracy shall be verified and it shall be kept along with the original record.”

Article 20

- (1) In the title of Article 78, after the word: “Warrant” the words: “and Witnesses” shall be added.
- (2) In Paragraph 3, after the words: “a search” the words: “and without the presence of witnesses” shall be added, and after the word: “warrant” the words: “or witnesses” shall be added.

Article 21

In Article 79, Paragraph 3, after the words: “objects are to be seized”, a comma shall be replaced with the word: “and”, and the words: “, and a notification of the right of the affected person to a legal remedy” shall be deleted.

Article 22

In Article 81, Paragraph 4(2) Instead of: “Such warrant must, however, be confirmed by the preliminary proceedings judge”, should read: “The judge shall decide on its confirmation”

Article 23

- (1) In Article 86, Paragraph 2, the words: “The preliminary proceedings judge” shall be replaced with the words: “The court”.
- (2) In Paragraph 3, the words: “the preliminary proceedings judge” shall be replaced with the words: “the court”, and the words: “the preliminary proceedings judge” shall be replaced with the words: “the court”.

Article 24

After Article 86, new Article 86a shall be added to read:

“Article 86a Order to Telecommunication Operator

- (1) If there are grounds for suspicion that a person has committed a criminal offence, the Court may, on the basis of motion of the Prosecutor or officials authorized by Prosecutor, issue an order to a telecommunication operator or another legal person providing telecommunication services to turn over information concerning the use of telecommunications services by that person, if such information could be used as evidence in the criminal proceedings or be useful in collection of information that could be useful to the criminal proceedings.
- (2) In urgent cases, the Prosecutor may order any of the measures referred to in Paragraph (1) of this Article and the received information will be sealed until the issuance of the court order. The Prosecutor shall immediately inform the preliminary proceedings judge who may issue a warrant within 72 hours. In case the preliminary proceedings judge fails to issue the said order, the Prosecutor shall be obliged to return such information without accessing it.
- (3) Measures referred to in Paragraph (1) of this Article may also be ordered against a person against whom there are grounds for suspicion that he will deliver to the perpetrator or will receive from the perpetrator the information in relation to the criminal offence, or grounds for suspicion that the perpetrator uses a telecommunication device belonging to this person.
- (4) Telecommunication operators or other legal person providing telecommunication services shall be obliged to enable the Prosecutor and police bodies to enforce the measures referred to in Paragraph (1). ”

Article 25

- (1) In Article 87, Paragraph 2, the words: “the measures taken must be confirmed” shall be replaced with the words: “shall decides about the measures taken”, and the words: “following the undertaking of the measures” shall be deleted.
- (2) In Paragraph 3, the word: “court” shall be deleted.

Article 26

- (1) In Article 88, in the beginning of the sentence the mark: (1) shall be inserted.
- (2) After Paragraph 1, new Paragraph 2 shall be added to read:
“(2) The court shall decide about the request for return of the seized objects upon hearing the prosecutor within 15 days the latest.”

Article 27

- (1) Title of Article 91 shall be changed to read: “Basic Rules on Questioning”.
- (2) In Paragraph 1, after the word: “prosecutor” the words: “or an authorised official” shall be added.
- (3) In Paragraph 3, after the word: “provisions” the words: “provision of Paragraph 2 of” shall be added.

Article 28

In Article 92, Paragraph 2, Item c), after the word: “favour” the words: “and that, if he does so in the presence of the defence attorney, the statement made is allowed as evidence at the main trial and may, without his consent, be read and used at the main trial” shall be added.

Article 29

- (1) In Article 95, Paragraph 7, after the word: “witness” the words: “after being warned of the consequences, without legal reasons” shall be added.
- (2) In Paragraph 8, the words: “imposing a fine” shall be replaced with the words: “from paragraph (5) and (7) of this Article”.

Article 30

- (1) In Article 96, in the beginning of the introductory sentence, the mark: “(1)” shall be inserted.
- (2) After paragraph (1), new paragraph (2) shall be added to read:
“(2) If the person who may refuse to testify, but was not cautioned about that and did not explicitly waive that right or such cautioning or waiving has not been entered into record, the Court decision shall not be based on his testimony.”

Article 31

- (1) In Article 98, Paragraph 3, after the word: “decision” the word: “main” shall be added.
- (2) In Paragraph 5, the words: “may be” shall be deleted and replaced with the words: “shall be”.

Article 32

- (1) In Article 99, Paragraph 2, after the word: “accused” the words: “if their statements differ regarding important facts” shall be added.
- (2) After Paragraph 3, a new Paragraph 4 shall be as added to read:
“(4) If it is not possible to make identification in accordance with Paragraph (3) of this Article, the identification shall be done by viewing a photograph of that person or objects placed amongst photographs of persons unknown to the witness or amongst objects of the same kind.”

Article 33

- (1) In Article 100, Paragraph 2, a new sentence that reads: “The witness shall be cautioned on his right not to answer questions listed in Article 98, Paragraph (1) of this Code and this caution shall be entered into record”, shall be added.

(2) In Paragraph 3, after the word: "inform" the words: "the prosecutor or" shall be added.
(3) In Paragraph 4, the words: "If necessary, hearing" shall be replaced with the word: "hearing".

Article 34

(1) In the title of Article 104, after the word: "Witnesses", the words: "Audio or Audio-Visual" shall be added.
(2) In Paragraph 1, after the words: "recorded using" the words: "audio or" shall be added.

Article 35

(1) In Article 117, the title shall be changed to: "Examination, Autopsy and Exhumation of Corpse".
(2) In Paragraph 1, the words: "that the death was not natural" shall be replaced with the words: "that the death was caused by a criminal offence or that it is related to the commission of a criminal offence".
(3) In Paragraph 2, after the word: "the" the words: "examination and" shall be added.

Article 36

(1) The title of Article 118 shall be changed to: "Examination and Autopsy of the Corpse outside a Specialized Medical Facility".
(2) In Paragraph 2, the words: "The prosecutor shall direct the expert evaluation and shall record the findings and opinion of the expert" shall be replaced with the words: "The Prosecutor shall conduct the expert evaluation and shall make a report on it. The findings and opinion of the expert shall be integral part of the report".

Article 37

(1) In Article 129, a new Paragraph 2 shall be added to read:
"(2) The Federation Minister of Justice shall issue a Book of Rules on collection and taking of samples of biological material for the purpose of DNA analyses in criminal proceedings and on packing of collected biological material and on preserving, treatment and storing of samples and results of the DNA analyses in the Federation."
(2) Current Paragraph 2 shall become Paragraph 3.

Article 38

(1) In Article 130, Paragraph 2, Item d), after the word: "individuals" a comma and the words: "means of transport" were added, and after the words: "and objects" the words: "related to them" shall be added.
(2) In Item e) the words: "undercover investigators and informants" shall be replaced with the words: "use of undercover investigators and informants".
(3) In Item f), after the word: "simulated" the words: "and controlled" shall be added.
(4) After Paragraph 5, a new Paragraph 6 shall be added to read:
"(6) Undercover investigator is specially trained authorised official who investigates under his or her changed identity. The undercover investigator may participate in legal transactions under his or her changed identity. If it is necessary to establish and keep the identity, appropriate documents may be issued, changed or used."

Article 39

In Article 131, the words: "at least" shall be replaced with the word: "by".

Article 40

In Article 136, in the second sentence, after the word: "witnesses", a comma and the words: "or as protected witnesses" shall be added, and after the word: "measures" the words: "or on the other significant circumstances" shall be added.

Article 41

In Article 139, Paragraph 2, the words: “provided that this order must be confirmed by the preliminary proceedings judge within 24 hours after issuance of the order.” Shall be deleted.

Article 42

The title of Section 4 shall be changed to read:

“Section 4 - PROHIBITING MEASURES”.

Article 43

Article 140 shall be amended to read:

“House Arrest and Travel Ban

- (1) If there are circumstances indicating that the suspect or accused might flee, hide or go to an unknown place or abroad, the Court may, by a reasoned decision, place the suspect or accused under house arrest.
- (2) In circumstances referred to in Paragraph (1) of this Article, the Court may also, either as an additional measure to the house arrest or as a separate measure, order a temporary withdrawal of travel documents together with the prohibition of issuance of new travel documents, as well as the prohibition to use the identity card for crossing the State border of Bosnia and Herzegovina (travel ban).”

Article 44

After Article 140, Articles 140a, 140b, 140c, 140d, 140e, 140f and 140g shall be added to read:

“Article 140a Other Prohibiting Measures

- (1) When the circumstances of the case so indicate, the Court may order one or more of the following prohibiting measures:
 - a) prohibition from performing certain business or official activities,
 - b) prohibition from visiting certain places or areas,
 - c) prohibition from meeting with certain persons,
 - d) order to report occasionally to a specified body, and
 - e) temporary withdrawal of the driver’s license.
- (2) Other prohibiting measures referred to in Paragraph (1) of this Article may be imposed in addition to the house arrest as well as in addition to a travel ban referred to in Article 140 of this Code, or as separate measures.

Article 140b Imposing the Prohibiting Measures

- (1) The Court may impose the house arrest, travel ban and other prohibiting measures by a reasoned decision upon the proposal of a party or the defense attorney.
- (2) When deciding on custody, the Court may impose the house arrest, travel ban and other prohibiting measures *ex officio*, instead of ordering or prolonging the custody.
- (3) In the decision imposing the prohibiting measures, the suspect or accused shall be warned that the custody may be ordered against him or her if he/she violates the obligation under the imposed measure.
- (4) In the course of an investigation, the prohibiting measures shall be ordered 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 the main trial – by that judge or the presiding judge.

(5) The prohibiting measures may last as long as they are needed, but not later than the date on which the verdict becomes legally binding if a person was not pronounced the sentence of imprisonment and at the latest until the person has been committed to serve the sentence if a person was pronounced the sentence of imprisonment. Travel ban may also last until the pronounced fine is paid in full and/or the property claim and/or confiscation of material gain enforced in full.

(6) The preliminary proceedings judge, preliminary hearing judge, the judge, or the presiding judge must review every two months whether the imposed prohibiting measure is still needed.

(7) A decision ordering, extending or revoking the prohibiting measures may be appealed by a party or the defense attorney, while the Prosecutor may also appeal a decision rejecting his motion for the ordering of a measure. An appeal shall be decided by the Panel referred to in Article 25 Paragraph (6) of this Code within three days of receipt of the appeal. An appeal shall not stay the execution of decision.

Article 140c Content of the Prohibiting Measures

(1) In a decision ordering the house arrest for the suspect or accused, the Court shall specify the place where the suspect or accused shall stay for as long as the measure lasts, as well as the boundaries beyond which the suspect or accused may not go. The place may be restricted to the suspect's or accused's home.

(2) In a decision imposing the travel ban, the Court shall order temporary withdrawal of travel documents together with the prohibition of issuance of new travel documents, as well as the enforcement of the prohibition to use the identity card for crossing the State border of Bosnia and Herzegovina. The decision shall contain personal data of the suspect or accused, and may contain other information as necessary.

(3) In a decision prohibiting the suspect or accused from visiting certain places or areas, the Court shall specify places and areas and the distance within which the suspect or accused may not approach them.

(4) In a decision prohibiting the suspect or accused from meeting with certain persons, the Court shall specify the distance within which the suspect or accused may not approach a certain person.

(5) In a decision ordering the suspect or accused to report occasionally to a specified body, the Court shall appoint an official person that the suspect or accused must report to, the time limit in which the suspect or accused must report and the manner of keeping records of reporting.

(6) In a decision ordering temporary withdrawal of a driver's license, the Court shall specify categories for which a driver's license shall be suspended. The decision shall contain personal data of the suspect or accused, and may contain other information as necessary.

Article 140d Limitations in the Content of the Prohibiting Measures

(1) The prohibiting measures shall not restrict the right of the suspect or accused to communicate with his/her defense attorney in Bosnia and Herzegovina.

(2) The prohibiting measures shall not restrict the right of the suspect or accused to live in his/her home in Bosnia and Herzegovina, to see members of his/her family and close relatives freely or just in Bosnia and Herzegovina or just in a place specified under the house arrest and unless the proceedings involve the criminal offense committed to the detriment of the family member or close relatives, nor shall they restrict the right of the suspect or accused to perform its professional activity unless the proceedings involve the criminal offense related to the performance of that activity.

Article 140e Enforcement of Prohibiting Measures

(1) A decision ordering the house arrest shall be submitted also to the body enforcing the measure.

(2) A decision ordering the travel ban shall be submitted also to the border police, and the temporary withdrawal of travel documents together with the prohibition of issuance of new travel documents, as well as the

enforcement of the prohibition to use the identity card for crossing the State border shall be entered into the Central Data Processing Centre.

(3) The measures of house arrest, travel ban, prohibition from visiting certain places or areas, prohibition from meeting with certain persons and temporary withdrawal of a driver's license shall be enforced by a police body.

(4) The measure ordering the suspect or accused to report occasionally to a specified body shall be enforced by a police body or the body that the suspect or accused must report to.

Article 140f

Verification of Prohibiting Measures and Obligation to Submit Report

(1) At any time, the Court may order verification of prohibiting measures and request the competent body in charge of the enforcement to submit a report. The body shall be obliged to submit the report to the Court without delay.

(2) If the suspect or accused is not fulfilling obligations ordered by the measure, the enforcement body shall inform the Court about it and the Court may pronounce additional prohibiting measure or place him/her into custody.

Article 140g

Special Provision on Travel Ban

(1) Exceptionally, in emergency cases, in particular in cases involving a criminal offense for which a prison sentence of ten years or more severe punishment may be pronounced, the order for a temporary withdrawal of travel documents and the identity card together with prohibiting the issuance of new documents that might be used for crossing the State border, may be issued by the Prosecutor.

(2) The Prosecutor may issue the order referred to in Paragraph (1) of this Article when ordering the conduct of an investigation, when questioning the suspect or when issuing an apprehension order under Article 139, Paragraph (2) of this Code, or whenever the emergent action is needed for the effective conduct of the process until the beginning of the main trial.

(3) In the course of an investigation, the Prosecutor shall immediately inform the preliminary proceedings judge and after the issuance of an indictment – a preliminary hearing judge and after the case has been referred to the judge or the Panel for the purpose of scheduling the main trial – that judge or the presiding judge, who shall decide about the order within 72 hours. In case the judge fails to issue the said order, the travel documents and the identity card shall be returned.

(4) The order for a temporary withdrawal of travel documents and the identity card together with prohibiting the issuance of new documents that might be used for crossing the State border, shall be executed by a police body, and may also be executed by judicial police. If a suspect or accused refuses to surrender the travel documents and/or the identity card, the order shall be executed by force.

(5) The suspect or accused shall be issued a receipt on withdrawn documents. For the identity card, the suspect or accused shall be issued a special certificate or card that shall replace the identity card in all respects, but it may not be used for crossing the State border.

Article 45

Article 145 shall be amended to read:

“General Provisions

(1) Custody may be ordered or extended only under the conditions prescribed by this Code and only if the same purpose cannot be achieved by another measure.

(2) Custody shall be ordered or extended by a decision of the Court issued on the motion of the Prosecutor after the Court heard the suspect or accused about circumstances surrounding the grounds for proposed custody, except in a case prescribed by Article 146, Paragraph 1, Item a) of this Code.

(3) The Prosecutor shall submit to the Court a reasoned proposal for extension of custody latest five days before expiration of a deadline from the decision on ordering custody. The Court shall submit the proposal to suspect or accused and his defence attorney.

(4) The duration of custody must be reduced to the shortest necessary time. It is the duty of all authorities participating in criminal proceedings and of agencies extending them legal aid to proceed with particular urgency if the suspect or the accused is in custody.

(5) 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. Upon proposal of the accused or defence attorney for termination of custody that is based on new facts, the Court shall hold the hearing or panel session about which the parties and defence attorney shall be notified. Absence of duly summoned parties and defence attorney do not prevent the hearing or panel session from being held. The appeal against the decision on rejecting proposal for termination of custody is not allowed.”

Article 46

(1) In Article 146, Paragraph 1, Item c), the words: “five years (5)” shall be replaced with the words: “three years (3)”.

(2) Item d) shall be amended to read:

“d) in exceptional circumstances, related to criminal offence for which a prison sentence of ten years or more severe punishment may be pronounced, which is of particular gravity taking into account the manner of perpetration or consequence of the criminal offence, if the release would result in an actual threat to disturbance of public order.”

Article 47

(1) In Article 148, Paragraph 4, in the third sentence, after the word: “questioned”, a comma was deleted and the words: “and evidences on which the decision on custody has been grounded as well as” shall be added.

(2) Paragraph 5 shall be deleted.

(3) In the current Paragraph (6), which shall become Paragraph (5), the words: “cases referred to in Paragraphs 4 and 5” shall be replaced with the words: “case referred to in Paragraph 4”.

Article 48

In Article 150, paragraph (2) shall be deleted.

Article 49

In Article 151, paragraphs 4 and 5 shall be deleted.

Article 50

(1) In the title of Article 152, the words: “Ordering Custody After the Verdict is Pronounced” shall be replaced with words: “Custody After the Verdict is Pronounced”.

(2) In Paragraph 2, after the word: “rejected” the words: “for the reasons other than lack of jurisdiction of the Court” shall be added.

(3) Paragraph 3 shall be amended to read:

“(3) After pronouncing the first instance verdict, the custody may last no longer than additional nine months. Exceptionally, in complex cases and for the important reasons, the panel may take the decision extending the custody additionally for a six months maximum. If during that period no second instance verdict to alter or sustain the first instance verdict is pronounced, the custody shall be terminated and the accused shall be released. If within the nine months the 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) After Paragraph 4, new Paragraphs 5 and 6 shall be added to read:

“(5) Custody shall always be terminated upon the expiration of the pronounced sentence.”

“(6) The accused placed in custody against whom a sentence of imprisonment has become legally binding, shall remain in custody until he/she is sent to prison but not after the expiration of the prison term he has received.”

Article 51

Article 153 shall be amended to read:

“(1) The police may deprive a person of liberty if there are grounds for suspicion that he may have committed a criminal offence and if there are any of the reasons as referred to in Article 146 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. The use of force in accordance with law is allowed when apprehending the person.

(2) As an exception to Paragraph (1) of this Article, for crimes of terrorism, the person must be brought before the Prosecutor, at latest, within 72 hours.

(3) A person deprived of liberty must be instructed in accordance with Article 5 of this Code.

(4) If a person deprived of liberty is not brought before the Prosecutor within the period specified in Paragraphs 1 and 2 of this Article, he shall be released.

(5) The Prosecutor shall be obliged to question the apprehended person without delay and no later than 24 hours and decide within that time whether he will release the apprehended person or file the reasoned request for custody of the person in question to the preliminary proceeding judge ensuring that the person is brought before the judge.

(6) The preliminary proceedings judge shall immediately, and no later than within 24 hours, issue a decision on request for custody order.

(7) If the preliminary proceedings judge rejects the proposal for the custody, he shall issue a decision rejecting the request and shall immediately release the person. The Prosecutor may file an appeal against decision of the preliminary proceeding judge, which does not stay the execution of the decision.

(8) The person taken into custody may appeal the decision on custody, which does not stay the execution of the decision.

(9) In the case referred to in paragraphs (7) and (8) of this Article, the Panel referred to in Article 25 Paragraph (6) of this Code shall decide on the appeal and is obliged to issue a decision within 48 hours of receipt of the appeal by the Court.”

Article 52

In Article 158, paragraph 3 shall be amended to read:

“(3) A detainee may have confidential correspondence with any other person. Exceptionally, the Court may issue decision on supervision of such confidential correspondence if so required by the interests of the proceedings. Appeal against this decision is allowed, which does not stay the execution of the decision. A detainee cannot be prohibited from sending a request, complaint or appeal.”

Article 53

The title of Article 162 shall be amended to read: “Filing and Emendation of Submissions”.

Article 54

In Article 163, Paragraph 2, the word: “copies” shall be added.

Article 55

In Article 164, the word: “Federation” shall be deleted.

Article 56

- (1) In the title of Article 169, after the word: “recording” (in the English language version, before the words: “Audio-Video Recording”) the words: “audio or” shall be added.
- (2) In Paragraph 1, the word: “tape” shall be replaced with the words: “audio or audio-video”.
- (3) In Paragraph 4, the word: “tape” in a different grammatical cases shall be deleted.
- (4) In Paragraph 5, the word: “tape” shall be deleted.
- (5) In Paragraph 6, the words: “The magnetic tape” shall be replaced with the word: “recording”.
- (6) In Paragraph 7, the word: “electronically” shall be replaced with the words: “audio or audio-visually”.
- (7) Paragraph 8 shall be deleted.
- (8) Current Paragraph 9 shall become Paragraph 8, and the words: “Paragraph 1 through 8” shall be replaced with the words: “Paragraph 1 to 7”.

Article 57

In Article 179, Paragraph 1, the words: “whether it is necessary to supplement the proceedings” shall be deleted.

Article 58

In Article 185, Paragraph 1, the word: “sentencing” shall be replaced with the words: “pronouncement of the criminal sanction”.

Article 59

In Article 186, paragraph 3 shall be deleted.

Article 60

- (1) The title of Article 187 shall be amended, but these amendments affect only local language’s versions.
- (2) In Paragraph 1 there shall be amendment, but these amendments affect only local language’s versions.

Article 61

In Article 193, the words: “cannot be collected” shall be replaced with the words: “is not paid within certain deadline”.

Article 62

In Article 199, Paragraph 2, Item i), after the word: “representative” a comma and the words: “as well as remuneration and necessary expenses of his/her attorney in fact” shall be added.

Article 63

In Article 203, Paragraph 1, the number: “185” shall be replaced with the number: “199”.

Article 64

- (1) In the title of Article 204, after the words: “defence attorney” the words: “and attorney in fact” shall be added
- (2) In Paragraph 1, after the words: “expenses of the defence attorney” the words: “and attorney in fact” shall be added.

Article 65

In Article 209, Paragraph 1, after the words: “filled with” the words: “prosecutor or” shall be added.

Article 66

Article 211 shall be amended to read:

“(1) The Prosecutor has a duty to gather evidence and decide whether the possible claim under property law relates to criminal offence.

(2) The Prosecutor or the Court shall question the suspect or the accused in relation to the facts of concern in the petition of authorized officials.”

Article 67

In Article 212 paragraph 1 shall be amended to read:

“(1) The Court shall render a verdict on claims under property law. The Court may propose to the injured party or the accused or the defence attorney to carry out the mediation with the assistance of the mediators in accordance with law if it assesses that the mediation can meet the requirements of the claim under property law. The proposal for the mediation can be initiated before the conclusion of the main trial also by the injured party and the accused or the defence attorney.”

Article 68

In Article 220, the sentence: “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” shall be deleted.

Article 69

In Article 222, Paragraph 2, after the word: “Article” the words: “prosecutor or” shall be added.

Article 70

In Article 223, after the word: “law” the words: “or other by-law enacted on the basis of the Constitution or law”, and the word: “conduct” shall be replaced with the words: “initiate or continue”.

Article 71

In Article 231, Paragraph 3, the words: “shall not order the investigation” shall be replaced with the words: “shall issue order that the investigation shall not be conducted”.

Article 72

In Article 232, after Paragraph 2, a new Paragraph 3 shall be added to read:

“(3) If the suspect is placed in custody, the order for bringing him to questioning shall be issued by the Prosecutor who shall notify the preliminary proceedings judge.”

Article 73

In Article 233 paragraph 4 shall be deleted.

Article 74

In Article 236, after the word: “exception” the words: “medical examination” shall be added.

Article 75

(1) The title of Article 237 shall be amended to read: “Medical Examination, Autopsy and Exhumation”.

(2) In Paragraph 1, after the word: “order” the words: “a medical examination and” shall be added.

Article 76

In Article 238, the sentence: “The statement in question may not be used if the witness is present at the main trial” shall be deleted.

Article 77

Article 239 shall be amended to read:

“(1) The Prosecutor shall order that the investigation of a suspect should cease if it is established that:

- a) the act committed by the suspect is not a criminal offence,
- b) the circumstances that exclude criminal liability of the suspect exist except in the case under Article 220 of this Code,
- c) there is insufficient evidence that the suspect committed a criminal offence;
- d) 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 enjoying the rights under Article 231 of this Code, the suspect if he was questioned and the person that reported the crime about the cessation and grounds for cessation of the investigation in writing.

(3) In the cases under Item c) of Paragraph 1 of this Article the Prosecutor may reopen the investigation at a later date if new facts and circumstances imply that there are grounds for suspicion that the suspect committed a criminal offence.”

Article 78

(1) In Article 240, Paragraph 2 shall be deleted.

(2) Current Paragraph 3 shall become Paragraph 2.

(3) After Paragraph 2, a new Paragraph 3 shall be added to read:

“(3) The indictment shall not be issued if the suspect was not questioned.”

Article 79

(1) In Article 242, Paragraph 1, Item e), the word: “names” shall be deleted, and after the word: “experts” the words: “or pseudonym of protected witnesses” shall be added.

(2) In Item g), the word: “material” shall be replaced with the word: “evidence”.

Article 80

Article 243 shall be amended to read:

“(1) Immediately on receipt of the indictment the preliminary hearing judge shall examine whether the Court has jurisdiction to try, whether the circumstances under Article 239 Paragraph (1) item d) of this Code exist, and whether the indictment was properly drafted (Article 242 of this Code). If the Court finds that the indictment was not properly drafted it will act in accordance with Article 162 Paragraphs (3) and (4) of this Code.

(2) The preliminary hearing judge may confirm or discharge all or some of the counts in the indictment within 8, and in complex cases within 15 days of receipt of the indictment. If the preliminary hearing judge discharges all or some of the counts he shall issue decision that will be delivered to the Prosecutor. An appeal can be filed within 24 hours. The Panel from Article 25 Paragraph (6) of this Code shall decide on this appeal within 72 hours.

(3) During the confirmation of the indictment, the preliminary proceedings judge shall examine each count in the indictment and evidence submitted by the Prosecutor in order to establish grounded suspicion.

(4) Upon confirmation of some or all counts in the indictment, the suspect shall have the status of the accused. The preliminary hearing judge shall present the accused and his defence attorney with the indictment.

(5) The preliminary hearing judge shall present the accused who is not detained with the indictment without delay, and if the accused is already detained, the preliminary proceeding judge shall present him with the indictment within 24 hours after the confirmation of the indictment. The preliminary hearing judge shall inform the accused that within 15 days of delivery of the indictment he has the right to submit the preliminary motions, that the plea hearing shall be scheduled immediately after the decision on preliminary motions is issued or after the expiration of the deadline for submission of preliminary motions, and shall request the accused to list the proposed evidence that he intends to present at the main trial.

(6) Upon discharge of all or some counts in the indictment, the Prosecutor may bring a new or an amended indictment that shall be based on new evidence. The new or amended indictment shall be submitted for confirmation.”

Article 81

Article 244 shall be amended to read:

“(1) A plea of guilty or not guilty shall be entered before the preliminary hearing judge in the presence of the Prosecutor and the defence attorney. Before the plea of guilty or not guilty the accused shall be informed about all possible consequences of plea in sense of Article 245 Paragraph (1) of this Code. In case that the accused does not have the defence attorney the preliminary hearing judge shall check whether the accused understands the consequences of plea and whether the conditions for appointment of the defence attorney in accordance with Article 59 Paragraph (5) and Article 60 of this Code exist. The Plea and the given instructions 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 245 of this Code exist.

(3) A plea of not guilty shall never be held against the accused in fashioning 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 and the evidence that support the indictment shall return to the Prosecutor. The main trial shall be scheduled within 30 days from the day when the accused entered the plea of guilt. In exceptional cases, this deadline may be extended for 30 additional days.”

Article 82

Article 245 shall be amended to read:

“(1) In the course of deliberation of the statement on the plea of guilty from the accused, the Court must ensure the following:

- a) that the plea of guilty was entered voluntarily, consciously and with understanding,
- b) that the accused was informed that by his guilty plea he shall waive the right to trial,
- c) that there is enough evidence proving the guilt of the suspect or the accused,
- d) that the accused was informed of and understands the possible consequences in relation to the claim under property law and forfeiture of property gain obtained by commission of criminal offense,
- e) that the accused was informed of the decision on reimbursement of the expenses of the criminal proceedings and that the accused may be relieved of the duty to reimburse as referred to in Article 202 Paragraph (4) of this Code.

(2) If the Court accepts the statement on the plea of guilty, the statement of the accused shall be entered in the record and the Court shall continue with the hearing for the pronouncement of the sentence.

(3) If the Court rejects the statement on plea of guilty, the Court shall inform the parties and the defense attorney to the proceeding about the rejection and say so in the record. Statement on the admission of guilt is inadmissible as evidence in the further course of the criminal proceeding.”

Article 83

Article 246 shall be amended to read:

“(1) The suspect or the accused and the defense attorney, may negotiate with the Prosecutor about the conditions of admitting guilt for the criminal offence with which the suspect or accused is charged until the completion of the main trial proceedings or the appellate hearing proceedings.

(2) The plea agreement shall not be entered into if the accused pleaded guilty at the plea hearing.

(3) In plea bargaining with the suspect or the accused and his defence attorney on the admission of guilt pursuant to Paragraph 1 of this Article, the Prosecutor may propose an imprisonment sentence below legally prescribed minimum or more lenient criminal sanction for the suspect or accused in accordance with the provisions of the Criminal Code.

(4) An agreement on the admission of guilt shall be made in writing and shall be delivered along with the indictment to the preliminary hearing judge, judge or the Panel. After the confirmation of the indictment, the preliminary hearing judge shall deliberate on the agreement and pronounce the criminal sanction until the case is submitted to the judge or the Panel for the purpose of scheduling the main trial. After the case is submitted for the purpose of scheduling the main trial, judge or the Panel shall decide on the agreement.

(5) The preliminary hearing judge, judge or the Panel may accept or reject the agreement.

(6) In the course of deliberation of the agreement on the admission of guilt, the Court must ensure the following:

- a) that the agreement of guilt was entered voluntarily, consciously and with understanding, and that the accused is informed of the possible consequences, including the satisfaction of the claims under property law, forfeiture of property gain obtained by commission of criminal offense and reimbursement of the expenses of the criminal proceedings;
- b) that there is enough evidence proving the guilt of the accused;
- c) that the accused understands that by agreement on the admission of guilt he waives his right to trial and that he may not file an appeal against the pronounced criminal sanction,
- d) that the agreed sanction is in accordance with Paragraph 3 of this Article,
- e) that the injured party was given an opportunity before the Prosecutor to give statement regarding the claim under property law.

(7) If the Court accepts the agreement on the admission of guilt, the statement of the accused shall be entered in the record and the Court shall continue with the hearing for the pronouncement of the sentence foreseen by the agreement.

(8) If the Court rejects the agreement on the admission of guilt, the Court shall inform the parties to the proceeding and the defense attorney about the rejection and say so in the record. At the same time, the date of the main trial proceedings shall be determined. The main trial shall be scheduled within 30 days. Admission of guilt from this agreement is inadmissible as evidence in the criminal proceedings.

(9) The Court shall inform the injured party about the results of the plea bargaining.”

Article 84

In Article 247, paragraph 1, the words: “who confirmed the indictment” shall be deleted.

Article 85

Article 248 shall be amended to read:

“(1) Preliminary motions are motions that:

- a) challenge jurisdiction,
- b) stress the circumstances from Article 239 Paragraph (1) Item d) of this Code,

- c) allege formal defects in the indictment,
- d) challenge the lawfulness of evidence obtained,
- e) seek joinder or separation of proceedings,
- f) challenge the refusal of a request for appointment of the defense attorney pursuant to Article 60 Paragraph 1 of this Code.

(2) If the preliminary hearing judge accepts the motion from Paragraph (1) Item d) of this Article he shall decide that such evidence is removed from the case file and returned to the Prosecutor.

(3) The preliminary hearing judge who cannot participate in the proceedings shall decide the preliminary motion within 8 days. An appeal cannot be filed on the decision on the preliminary motions.

(4) If the preliminary hearing judge establishes that the reasons for issuing decision in favor of the accused based on the filled motion are also useful for any of the coaccused who failed to file motion or failed to file motion referring to that particular issue, it shall act ex officio as if such motions have been filed.”

Article 86

After Article 248, a new Article 248a shall be added to read:

“Article 248a Pre-trial Hearing

During the preparation for the main trial, the judge or presiding judge may hold a hearing with the parties to the proceedings and the defence attorney to consider issues relevant to the main trial.”

Article 87

In Article 249, Paragraph 3, the words: “guards of the accused” shall be replaced with the words: “judicial police”.

Article 88

In Article 254, Paragraph 2, the words: “that the truth is found” shall be deleted.

Article 89

In Article 259, in the first sentence, the word: “and” shall be replaced with a comma, and in the end of the sentence, after the word: “main trial”, the words: “and composition of the panel” shall be added.

Article 90

In Article 260, Paragraph 1, the word: “Federation” shall be deleted.

Article 91

- (1) In Article 263, Paragraph 1, in the first sentence, after the words: “appear in the main trial”, the words: “or leaves the main trial without prior approval” shall be added; and in the second sentence after the words: “failing to appear” the words: “or leaving the main trial without prior approval” shall be added.
- (2) In Paragraph 2, after the word: “absence”, the words: “or leaving the main trial without prior approval” shall be added.
- (3) In Paragraph 3, in the first sentence, the words: “or a new one is retained” shall be added.

Article 92

Article 266 shall be amended to read:

- “(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 must recommence from the beginning if the composition of the Panel has changed or if the adjournment lasted longer than 30 days but with consent of the parties and the defence attorney, the Panel may decide that in such a case the witnesses and experts shall not be examined again and that the new crime scene investigation shall not be conducted but the minutes of the crime scene investigation and testimony of the witnesses and experts given at the prior main trial shall be used.

(3) If the main trial is held before another judge or presiding judge, the main trial must commence from the beginning and all evidence must be again presented. In exceptional cases, if the main trial is held before another presiding judge, with consent of the parties and the defense attorney, the Panel may decide that the earlier presented evidence shall not be presented again.

(4) In cases from Paragraphs (2) and (3) of this Article, the judge or the Panel, without consent of the parties and the defense attorney, but after hearing parties and the defense attorney, may decide to use the testimony of the witnesses and experts given at the prior main trial as evidence if witnesses or experts died, became mentally incapacitated or unavailable or their appearance before the Court is impossible or difficult due to other reasons.”

Article 93

In Article 268, paragraph 1 shall be amended to read:

“(1) A record of the entire course of the main trial must be kept. If the course of the main trial was recorded in accordance with Article 169 of this Code, the transcript of the undertaken action shall, upon justified request of the parties and the defense attorney, be submitted to the parties and the defense attorney no later than three days from the day of the undertaken action in the main trial. The justifiability of the request shall be decided upon by the judge or the presiding of the Panel.”

Article 94

(1) In Article 274, in the beginning of the text, the number: “(1)” shall be added.

(2) After Paragraph 1, a new Paragraph 2 shall be added to read:

“(2) The judge or the presiding judge shall instruct the accused that he may give a statement in the capacity of a witness during the evidentiary proceedings and if he decides to give such statement he shall be subject to direct and cross-examination as provided for in Article 277 of this Code, i.e. instructed as provided for in Article 100 of this Code. In that case, the accused as witness shall not take an oath or affirmation. The Court shall give the opportunity to the accused to consult about this right with his defense attorney beforehand, and if he does not have the defense attorney the Court shall carefully assess whether the legal assistance of a defense attorney is necessary.”

Article 95

(1) In the title of Article 275, the words: “Evidence of the Prosecution and the Defense” shall replaced with the words: “Opening Statements”.

(2) Paragraph 2 shall be amended to read:

“(2) 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. The Prosecutor shall then briefly state the evidence by which the Prosecutor expects to build his case.”

(3) Paragraph 3 shall be amended to read:

“(3) The accused or his defense attorney may then present the summary of the defense plan.”

Article 96

(1) In Article 276, Paragraph 2, in the introductory sentence, the word: “Panel” shall be replaced with the words: “President of the Panel”.

(2) Item f) shall be amended to read:

“f) all evidence relevant for the pronouncement of the criminal sanction.”

Article 97

In Article 278, after the word: “unnecessary” the words: “or that during the questioning, a witness was failed to be questioned regarding circumstances for which his/her questioning was again proposed” shall be added.

Article 98

(1) In Article 279, paragraph 1 shall be amended to read:

“(1) It shall not be allowed to ask an injured party about any sexual experiences prior to the commission of the criminal offence in question. Any evidence offered to show, or tend to show the injured party’s involvement in any previous sexual experience, behaviour, or sexual orientation, shall not be admissible.”

Article 99

In Article 281, paragraph 2 shall be amended to read:

“(2) The text of the oath or the affirmation is as follows: “I swear or affirm that I shall speak the whole truth regarding everything that I shall be asked before the Court and shall not fail to reveal anything known to me.”

Article 100

Article 283 shall be amended to read:

“(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) If the witness still refuses to testify, the witness may be imprisoned. Imprisonment shall last until the witness agrees to testify, or until his testimony becomes irrelevant or until the finalization of the criminal proceedings but no longer than 30 days.

(3) The Panel (Article 25 Paragraph 6 of this Code) shall decide on appeal filed against the decision on fine or imprisonment. An appeal against the decision on fine and imprisonment shall not stay the execution of the decision.”

Article 101

(1) In Article 285, paragraph 5 shall be deleted.

(2) Current paragraph 6 shall become paragraph 5.

Article 102

In Article 286, Paragraph 1, after the word: “attorney” the words: “or the court” shall be added.

Article 103

In article 287, paragraph 3 shall be amended to read:

“(3) The parties, defence attorney and injured party shall always be invited to attend the examination of witnesses or the reconstruction. Examination shall be carried out as it is at the main trial in accordance with Article 277 of this Code.”

Article 104

(1) In article 288, paragraph 1 shall be amended to read:

“(1) Prior statements given during the investigative phase are admissible as evidence in the main trial and may be used in direct or cross-examination or in rebuttal or in rejoinder, and subsequently presented as evidence or for rejoinder. The person may be given the opportunity to explain or deny a prior statement.”

(2) In Paragraph 2, after the words: “important reasons” the words: “or if without legal reasons they refuse to give statement at the main trial” shall be added.

(3) After Paragraph 2, a new Paragraph 3 shall be added to read:

“(3) If the accused during the main trial exercises his right not to present his defence or not to answer questions he is asked, records of testimonies given during the investigation may, upon decision of the judge or the presiding judge, be read and used as evidence in the main trial, only if the accused was, during his questioning at investigation, instructed as provided for in Article 92 Paragraph (2) Item (c) of this Code.”

Article 105

In Article 290, the words: “at the main trial” shall be replaced with the words: “by completion of the evidentiary proceedings”.

Article 106

In Article 292, Paragraph 2, the words: “and they may be time limited” shall be deleted.

Article 107

In Article 295, Paragraph 2, after the word: “proposals” the words: “or the prosecutor” shall be added.

Article 108

(1) In Article 298, Paragraph 1, Item b) shall be deleted.

(2) Current items from c) through f) shall become items b) through e).

Article 109

In Article 300, Paragraph 2, the words: “is not able to pay” shall be replaced with the words: “does not pay”.

Article 110

In Article 301, Paragraph 2, after the word: “parties”, the word: “and” shall be replaced with a comma, and the word: “their” shall be deleted.

Article 111

In Article 312, Paragraph 2, the words: “to the preparation of the main trial” shall be deleted.

Article 112

In Article 317, in the second sentence, after the word: “record” the words: “and the transcript of the records from the main trial” shall be added.

Article 113

(1) In Article 320, in the beginning of the sentence the number: “(1)” shall be added.

(2) After Paragraph 1, a new Paragraph 2 shall be added to read:

“(2) The deadlines from Article 304 Paragraph 1 of this Code shall apply to preparation of the written decision rendered in a session of the Panel.”

Article 114

In Article 329, Paragraph 1, after the words: “item f)” the words: “g)” shall be added.

Article 115

In Article 330, Paragraph 4, after the word: “months” the words: “and in complex cases not later than 6 months” shall be added.

Article 116

In Article 332, paragraph 2 shall be amended to read:

“(2) If the Panel of the Appellate Division finds that it is necessary to repeat the 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 and may be read or reproduced if those witnesses and experts were cross-examined by the opposing party or the defence attorney or they were not cross-examined by the opposing party or the defence attorney although this was made possible as well as in cases otherwise provided by this Code, or if it is about the evidence referred to in Item e, Paragraph 2 of Article 276 of this Code.”

Article 117

Article 333 shall be amended to read:

“General Provision

- (1) An appeal is admitted against the verdict of the Appellate Division in the following cases:
 - a) if the Appellate Panel modified a verdict of acquittal of the court in the first instance and pronounced a verdict finding the accused guilty,
 - b) if on the basis of the appeal to the acquittal verdict the Appellate Panel in a hearing pronounced a verdict finding the accused guilty.
- (2) An appeal against an Appellate Division verdict shall be ruled on by the Panel in the third instance composed of three judges.
- (3) The provisions of Article 324 of this Code shall also apply to the co-accused who did not file an appeal against a verdict in the second instance.”

Article 118

In Article 338, before the number: “322”, the number: “321” shall be added.

Article 119

After Article 340, a new Article 340a shall be added to read:

“Article 340a Repetition of Criminal Proceedings

- (1) The verdict may be modified without repetition of the criminal proceedings if two or more verdicts against the same convict rendered several valid penalties and provisions on pronouncing a single new sentence for merger of crimes were not applied.
- (2) In the case referred to in Paragraph 1 of this Article the court shall, with this new verdict, modify the previous verdict with respect to the decision on sentencing and pronounce a single penalty. The court in the first instance which tried the case in which the strictest type of penalty was pronounced has competent jurisdiction to issue the new verdict, and if the penalties were of the same kind, that court has competent

jurisdiction which pronounced the highest penalty; and if the penalties are equal in that respect, that court has competent jurisdiction which was the last to pronounce a penalty.

(3) The new verdict shall be rendered by the court in a session of the panel on petition of the competent prosecutor or the convicted or the defence attorney, but after hearing the adverse party.

(4) If in the case referred to in Paragraph 1 of this Article the verdicts of other courts are also taken into account when the penalty is pronounced, a certified copy of the new final verdict shall also be delivered to those courts.”

Article 120

In Article 343, Paragraph 1, Item f), the words: “, the Human Rights Chamber of Bosnia and Herzegovina” shall be deleted.

Article 121

In Article 346, Paragraph 1, number: “6” shall be replaced with the number: “4”, and in the end of the sentence, after the brackets, the words: “of the court, which tried in the first instance” shall be added.

Article 122

In Article 347, Paragraph 3, after the word: “proceedings” the words: “as set in Article 348 Paragraph (2) of this Code” shall be added.

Article 123

(1) In Article 348, Paragraph 1, the words: “after the prosecutor returns the documents,” shall be deleted.

(2) In Paragraph 3, the words: “or that the subject matter be returned to the investigative phase” shall be deleted.

Article 124

In Article 350, paragraph 2 shall be amended to read:

“(2) The Prosecutor may request one or more of the following criminal sanctions or measures to be pronounced: fine, suspended sentence or security measures: ban on carrying out a certain activity or duty, forfeiture of the item as well as forfeiture of material gain acquired by the criminal offence.”

Article 125

In Article, 351, Paragraph 2, the words: “forward it for further procedure in accordance with this Code” shall be replaced with the words: “shall act in accordance with Article 243 of this Code”.

Article 126

(1) In Article 352, Paragraph 1, after the word: “hearing” the words: “without delay, and at the latest within 8 days of confirmation of the indictment” shall be added.

(2) After Paragraph 1, a new Paragraph 2 shall be added to read:

“(2) The presence of the parties and defence attorney shall be necessary at the hearing. In case of their absence provisions of Articles 260, 261 and 263 of this Code shall apply.”

(3) Current Paragraph 2 shall become Paragraph 3, and in the Item c) the words: “present the accused with the evidence” shall be replaced with the words: “invite the Prosecutor to present the accused with the contents of the evidence”.

Article 127

In Article 353, paragraph 1 shall be amended to read:

“(1) If the accused pleads not guilty or raises any objections to the indictment, the judge shall forward the indictment for the purpose of scheduling the main trial, in accordance with this Code. The main trial shall be scheduled within 30 days.”

Article 128

- (1) In Article 363, Paragraph 1 shall be deleted.
- (2) Current Paragraph 2 shall become Paragraph 1, and the words: “the bodies” shall be replaced with the word: “everyone”.
- (3) Current Paragraph 3 shall become Paragraph 2.

Article 129

In Article 370, Paragraph 1, the words: “, nor may the course of the proceeding be visually or audio recorded” shall be deleted.

Article 130

In Article 374, the words: “against the minor” shall be replaced with the words: “towards the minor”.

Article 131

- (1) In Article 375, Paragraph 1, the words: “against the minor” shall be replaced with the words: “towards the minor”.
- (2) In Paragraph 3, after the word: “dwelling” the words: “and persons” shall be added.

Article 132

- (1) In Article 379, Paragraph 2, the word: “ten” shall be replaced with the number: “15”.
- (2) In Paragraph 4, two new sentences shall be added to read: “The review of justification of the custody shall be carried out by the Panel for Juveniles upon the expiration of one month period following the date of issuance of the most recent decision on custody. The appeal against this decision shall not stay its execution.”

Article 133

In Article 381, Paragraph 1, after the word: “proceedings or” the words: “to announce that he is dismissing the case and file a motion for dismissal of case or” shall be added.

Article 134

In Article 382, after Paragraph 2, a new Paragraph 3 shall be added to read:

“(3) The Panel may dismiss the case involving a juvenile and decide that the proceedings be continued before a judge for juveniles.”

Article 135

- (1) In Article 385, Paragraph 1, the words: “the preparations for the main trial,” shall be deleted.
- (2) In Paragraph 4, the words: “and supplement” shall be deleted.
- (3) After Paragraph 4, a new Paragraph 5 shall be added to read:

“(5) The Prosecutor, juvenile, defence attorney, parent or guardian of the juvenile shall be invited to the hearing, and a representative of the social welfare centre shall be notified of the hearing and may be present at the hearing. The Prosecutor and defence attorney of the juvenile are obliged to be present at the hearing. If the Prosecutor or the defence attorney fails to appear at the hearing without a justification, the judge for juveniles shall notify the Prosecutor’s Office and the Bar Association thereof.”

Article 136

- (1) In Article 409, Paragraph 2, the word: “able” shall be replaced with the word: “capable”.
- (2) In Paragraph 3, the words: “the court shall act in accordance with Article 298, Item f) of this Code” shall be replaced with the words: “the Panel referred to in Article 25 Paragraph (6) of this Code shall issue a Decision on adjournment of proceedings”.

Article 137

Article 410 shall be amended to read:

“(1) If the suspect has committed a criminal offence in the state of mental incompetence and if legally prescribed conditions for ordering mandatory placement in a health institution for seriously mentally incapacitated persons exist, the Prosecutor shall propose in the indictment that the Court establishes that the suspect committed an unlawful act in a state of mental incompetence, and that he shall be issued a temporary order on mandatory placement in a health institution, with the health institution being informed about it.

(2) Upon the reasoned proposal of the prosecutor, the detention of the suspect or accused under Paragraph 1 above may be ordered for reasons under Article 146 of this Law. When detention of the suspect is ordered or extended, he shall be confined in a health institution for a period that may last as long as the reasons under Article 132 exist, but not longer than time lines under Articles 149 and 151, paragraphs 2 and 3 of this Code, or until the temporary order on mandatory placement in a health institution has become final and binding.

(3) If, after the main trial is conducted, the Court establishes that the accused committed an unlawful act in a state of mental incompetence, it shall pass a judgment stating that the accused committed the offence in a state of mental incompetence and shall issue a special decision ordering temporary and mandatory placement in a health institution for the duration of up to six (6) months. The judgment and the decision may be appealed, and such an appeal must be filed no later than 15 days of delivery of the decision.

(4) Once the decision referred to in Paragraph 3 of this Article has become final and binding, the Prosecutor shall, in accordance with a special legislation regulating the protection of these persons, notify the competent court, for the purpose of initiating proceedings for mandatory placement of seriously mentally ill persons in a health institution. The medical documentation and final and binding decision on temporary mandatory placement in a health institution shall be submitted with this notification.

(5) If, during the main trial, the evidence presented indicates that the accused committed the unlawful offence in a state of full mental competence, reduced, or significantly reduced mental competence, the Prosecutor shall abandon the proposal from Paragraph 1 of this Article, continue with the proceedings and change the indictment. In case of reduced or significantly reduced mental capacity, the Prosecutor may propose a security measure of mandatory psychiatric treatment, pronounced along with another criminal sanction.

(6) Should the Court find that the accused was not in a state of mental incapacity at the time of committing the offence, and the Prosecutor has not abandoned the proposal referred to in Paragraph 1 of this Article, the Court shall issue a judgment dismissing the charges.

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

Article 138

- (1) In Article 412, Paragraph 1, the words: “convicted person” shall be replaced with the word: “accused”, and after the word: “security”, the words: “and moral” shall be added.
- (2) In Paragraph 2, the word: “court” shall be replaced with the words: “judge or Panel”.
- (3) In Paragraph 3, the word: “court” shall be replaced with the words: “judge or Panel”.

Article 139

In Article 421, Paragraph 3, the words: “set a new deadline for compliance with the obligations or lift that requirement” shall be replaced with the words: “extend the deadline for compliance with the obligation or

replace the obligation with another corresponding obligation or relieve the convicted person of complying with the pronounced obligation”.

Article 140

- (1) In Article 433, Paragraph 4 shall be deleted.
- (2) Current paragraph 5 shall become paragraph 4.

Article 141

In Article 450, Paragraph 1, the number: “6” shall be replaced with the number: “5”.

Article 142

In Article 455, Paragraph 1, the words: “this Code” shall be replaced with the words: “former legislation”.

Article 143

Constitutional-Legal Commissions of the HoR and HoP of the Parliamentary Assembly of Bosnia and Herzegovina are hereby authorized to prepare consolidated version of the CPC of Bosnia and Herzegovina.

Article 144

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

Chairwoman
of the House of Peoples
of the Parliament of the Federation of BiH
Stjepan Krešić, m.p.

Chairman
of the House of Representatives
of the Parliament of the Federation of BiH
Safet Softić, m.p.