

OG BDBiH 47/11- official consolidated version, (52/11)

Includes texts published in the OG BDBiH 10/03, 45/04, 6/05, 21/10, and 9/13

OG BDBiH 33/13 – official consolidated version

OG BDBiH 26/16 - amendments to the consolidated 33/13 version

## **THE CRIMINAL CODE OF BRCKO DISTRICT OF BOSNIA AND HERZEGOVINA**

### **GENERAL PART**

#### **I CHAPTER ONE**

##### **SCOPE OF THE CODE**

###### **Article 1**

This Code regulates general part of criminal legislation and criminal offences falling under the jurisdiction of the Brcko District of Bosnia and Herzegovina (hereinafter: the Brcko District).

##### **MEANING OF TERMS**

###### **Article 2**

- (1) *Criminal legislation of the Brcko District* comprises the criminal law provisions contained in this Code and in other laws of the Brcko District.
- (2) *Territory of the Brcko District* means the land and water surfaces within its borders, as well as the air space over them.
- (3) An *official person* means: a person elected or appointed to legislative, executive and judicial office within the Brcko District and other bodies and administrative institutions or services which perform particular administrative, expert and other duties, within the rights and liabilities of the authority that has founded them; a person who continuously or occasionally executes official duty in the mentioned administrative bodies or institutions; an authorised person in a business enterprise or another legal person who has been legally entrusted with the execution of public authorities, who performs certain duties within the frame of the said authority; and other persons performing official duties stipulated by law or other regulations based on the law.
- (4) When an official person has been indicated as the perpetrator of a particular criminal offence, persons referred to in Paragraph 3 of this Article may be considered the

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perpetrators of such offences provided that it does not follow from the characteristics of a particular criminal offence or particular regulation that their perpetrator may only be one of the specified persons.

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

(6) In cases when an official or responsible person has been indicated as the perpetrator of a criminal offence, all persons mentioned in Paragraphs 3 and 5 of this Article may be the perpetrators of such offence provided that it does not follow from the characteristics of a particular criminal offence that their perpetrator may only be one of the specified persons.

(7) A *foreign official person* means a member of a legislative, executive, administrative or judicial body of foreign state, a public official person of an international organisation and of its bodies, judge and other official person of an international court, serving in the Brcko District of Bosnia and Herzegovina, with or without remuneration.

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

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

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

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

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

(13) A *legal person*, as referred to in this Code, stands for Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska, Brcko District of Bosnia and Herzegovina, canton, city, municipality, local community, any organisational form of a business enterprise and all forms of co-operating enterprises, institutions, crediting and

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other banking institutions or institutions for insurance of property and persons, as well as other financial institutions, funds, political organisations, associations of citizens and other associations that may acquire funds and use them in the same way as other institutions or bodies that acquire and use funds and that are legally recognised as legal persons.

(14) A *business enterprise*, as referred to in this Code, means corporations, companies, firms, partnerships and any other organizational form registered for performing economic activities.

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

(16) *Several persons* means at least two persons or more.

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

(18) A *group of people* is an assemblage of at least three individuals that are associated for the purpose of perpetration of criminal offences, while each of the individuals takes part in the perpetration of the criminal offence.

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

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

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

(22) A *secret of the Brcko District* means information or documents that have been designated as secret by virtue of a law, some other regulation or enactment of the competent body made on the basis of the law, and disclosure of which would cause detrimental consequences for the Brcko District of Bosnia and Herzegovina.

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

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

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

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

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

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

(29) *Narcotic drug* means any medical drug or hazardous substance with addictive and psychotropic characteristics, or any substance that can easily be converted into such substances, provided that it is subject to control under the international convention ratified by Bosnia and Herzegovina, or any substances declared as narcotic drugs by a competent institution of Bosnia and Herzegovina, Brcko District or entities.

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

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

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

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

(34) A *nuclear facility* means every nuclear reactor, including reactors mounted on vessels, vehicles, aircrafts or space facilities used as energy source for those vessels, vehicles, aircrafts or space facilities or for any other purposes, and every plant or instrument used for production, storing, processing or transport of radioactive material.

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

(36) *An explosive device* means:

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

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

(37) The *hatred* represents a motif for perpetration of a criminal offence provided in this Code that is entirely or partly perpetrated due to actual or assumed ethnic or national origin, language or skript, religious beliefs, race, colour, sex, sexual orientation, political

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or other affiliation, social origin, social status, age, health and other characteristics, or due to associating with persons with such characteristics.

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

## **II CHAPTER TWO BASIC PROVISIONS**

### **Basis and Limits of Legal Compulsion Article 3**

(1) Criminal offences and criminal sanctions shall be prescribed only for acts threatening or violating personal liberties and human rights, as well as other rights and social values guaranteed and protected by the Constitution of Bosnia and Herzegovina, the Statute of the Brcko District and international law in such a manner that their protection could not be realized without legal compulsion.

(2) The prescription of criminal offences, as well as the types and the range of criminal sanctions, shall be based upon the necessity for legal compulsion and its proportionality with the degree of the danger to personal liberties, human rights and other basic values.

### **Principle of Legality Article 4**

(1) Criminal offences and criminal sanctions shall be prescribed only by law.

(2) No penalty or other criminal sanction may be imposed on any person for an act which, prior to being perpetrated, has not been defined as a criminal offence by law or international law, and for which a penalty has not been prescribed by law.

### **Principle of Guilt Article 4a**

No one can be punished or subjected to other criminal sanctions if he is not guilty of the committed criminal offence.

### **Time Constraints Regarding Applicability Article 5**

(1) The Code that was in effect at the time when the criminal offence was perpetrated shall apply to the perpetrator of the criminal offence.

(2) If the Code has been amended on one or more occasions after the criminal offence had been perpetrated, the Code that is more lenient to the perpetrator shall be applied.

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### **Types of Criminal Sanctions**

#### **Article 6**

Criminal sanctions are as follows: penalties, reprimand (suspended sentence) and security measures.

### **Purpose of Criminal Sanctions**

#### **Article 7**

The purpose of criminal sanctions is as follows:

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

### **Restrictions in Enforcement of Criminal Sanctions**

#### **Article 8**

In the enforcement of a criminal sanction, certain rights of the perpetrator of a criminal offence may be denied or restricted only to an extent commensurate with the nature and the content of the sanction, and only in a manner that provides for the respect of the perpetrator's personality and his human dignity in compliance with international law.

## **III CHAPTER THREE**

### **APPLICATION OF CRIMINAL LEGISLATION IN THE BRCKO DISTRICT**

#### **Non-application of Criminal Legislation to Children in Brcko District**

##### **Article 9**

Criminal legislation in the Brcko District shall not be applied to a child who, at the time of perpetrating a criminal offence, had not reached fourteen years of age.

#### **Application of Criminal Legislation to Juveniles in the Brcko District**

##### **Article 10**

Criminal legislation in the Brcko District shall be applied to juveniles pursuant to the Law on Protection and Treatment of Children and Juveniles in the Criminal Proceedings of the Brcko District BiH.

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### **Application of Criminal Legislation to Legal Persons in the Brcko District Article 11**

Criminal legislation in the Brcko District shall be applied to legal persons pursuant to Chapter XIV (*Liability of Legal Persons for Criminal Offences*) of this Code and other laws of the Brcko District.

### **Application of Criminal Legislation of the Brcko District to Anyone Perpetrating a Criminal Offence in the Brcko District Article 12**

- (1) Criminal legislation of the Brcko District shall apply to anyone who perpetrates a criminal offence within its territory.
- (2) Criminal legislation of the Brcko District shall apply to anyone who perpetrates a criminal offence aboard a domestic vessel, regardless of its location at the time of perpetration of the offence.
- (3) Criminal legislation of the Brcko District shall apply to anyone who perpetrates a criminal offence aboard a domestic aircraft while in flight, regardless of its location at the time of perpetration of the offence.

### **Application of Criminal Legislation of the Brcko District to Brcko District Citizen who Perpetrates Criminal Offence Abroad and Foreign Citizen who Perpetrates Criminal Offence Abroad Article 13**

- (1) Criminal legislation of the Brcko District shall apply to a Brcko District citizen who perpetrates a criminal offence abroad, if he is found in the Brcko District territory or has been extradited.
- (2) Criminal legislation of the Brcko District shall also apply to a foreign citizen who, outside the Brcko District territory, perpetrates a criminal offence against the Brcko District or its citizen, if he is found in the Brcko District territory or has been extradited.
- (3) Criminal legislation of the Brcko District shall be applied to a foreign citizen who, while being abroad, perpetrates a criminal offence against a foreign state or a foreign citizen for which, under the law in force in the state of perpetration of the criminal offence, a sentence of imprisonment for a term of five years or a more severe penalty may be imposed, if he is found in the Brcko District territory. In such cases, unless otherwise stipulated by this Code, the court may not pronounce a sentence more severe than the sentence prescribed by the law of the state in which the criminal offence was perpetrated.

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(4) If a criminal proceeding in the cases referred to in Article 12 of this Code has been initiated in another state and has not been terminated, the Prosecutor of the Brcko District shall decide whether to institute prosecution.

(5) In the cases referred to in Article 13 of this Code, prosecution shall be instituted only if the perpetrated criminal offence is also punishable under the laws of the state in which the criminal offence was perpetrated. The prosecution shall not be instituted even in this case if, under the law of the respective state, the prosecution is to be instituted at the request of the injured party, and such a request has not been filed.

(6) The prosecutor may institute prosecution referred to in Article 13, Paragraph 3 of this Code, irrespective of the law of the state in which the criminal offence was perpetrated, if the criminal offence in question was, at the time of perpetration, defined as a criminal offence under the international law.

(7) In the cases referred to in Article 12 of this Code, prosecution of a foreign citizen may be ceded to the foreign state under the reciprocity conditions.

#### **Application of the General Part of This Code Article 14**

(1) The provisions of the General Part of this Code shall apply to perpetrators of all criminal offences prescribed by the laws of the Brcko District.

(2) The provisions of the General Part of this Code shall apply to juveniles, unless otherwise provided for by the Code.

(3) The provisions of the General Part of this Code shall apply to legal persons, unless otherwise provided for by this Code.

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

#### **Statute of Limitations Regarding Criminal Prosecution Article 15**

(1) Unless otherwise stipulated by this Code, criminal prosecution shall not be instituted when the following time periods have elapsed since the perpetration of a criminal offence:

- a) Thirty-five years in the case of a criminal offence for which a sentence of long-term imprisonment is prescribed;
- b) Twenty years in the case of a criminal offence for which a sentence of imprisonment for a term exceeding ten years is prescribed;
- c) Fifteen years in the case of a criminal offence for which a sentence of imprisonment for a term exceeding five years is prescribed;



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

#### **Running and Interruption of the Statute of Limitations on Criminal Prosecution Article 16**

- (1) Statute of limitations on criminal prosecution shall commence on the day on which the criminal offence has been perpetrated.
- (2) Statute of limitations shall be suspended for any legally prescribed time period during which the prosecution cannot be instituted or continued.
- (3) Statute of limitations shall be interrupted by any procedural action instituted to prosecute the perpetrator on account of the criminal offence perpetrated.
- (4) Statute of limitations shall also be interrupted if the perpetrator commits a new equally grave or graver criminal offence before the limitation period has elapsed.
- (5) After each interruption, the statute of limitations shall commence anew.
- (6) Statute of limitations on criminal prosecution shall occur in any case after the elapse of double the time that is set by the Code for the statute of limitations of criminal prosecution.

#### **Statute of Limitations on Enforcement of Sentence Article 17**

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

- a) Thirty-five years if a sentence of long-term imprisonment has been imposed;
- b) Twenty years if a sentence of imprisonment for a term exceeding ten years has been imposed;
- c) Fifteen years if a sentence of imprisonment for a term exceeding five years has been imposed;
- d) Ten years if a sentence of imprisonment for a term exceeding three years has been imposed;
- e) Five years if a sentence of imprisonment for a term exceeding one year has been imposed;

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- f) Three years if a sentence of imprisonment for a term not exceeding one year or a fine has been imposed.

**Statute of Limitations on Enforcement of Subsidiary Sentence and Security Measures**  
**Article 18**

(1) The statute of limitations on collection of a fine as a subsidiary sentence shall commence after the expiration of two years from the date of effectiveness of the judgment ordering that sentence.

(2) The statute of limitations on enforcement of the security measure of mandatory psychiatric treatment, the security measure of mandatory addiction treatment and the security measure of forfeiture shall commence after the expiration of five years from the date of effectiveness of the judgement whereby these measures have been ordered.

(3) The statute of limitations on enforcement of the security measure of a ban to perform an occupation, activity or duty and security measure of a ban on driving a motor vehicle shall commence after the expiration of the period for which this measure is imposed by the court.

**Running and Interruption of Statute of Limitations on Enforcement of Sentence and Security Measures**  
**Article 19**

(1) The statute of limitations on enforcement of a sentence shall commence on the date of effectiveness of the judgement whereby such sentence has been imposed, and in the case of revocation of a suspended sentence, on the date of effectiveness of the decision on revocation of a suspended sentence.

(2) The statute of limitations shall not run during the time the sentence cannot be enforced pursuant to the Code.

(3) The statute of limitations shall be interrupted by any action of a competent body taken in regard to the enforcement of a sentence.

(4) After each interruption, the statute of limitations shall commence anew.

(5) The statute of limitations on enforcement of a sentence shall commence in any case when twice as much time elapses than the Code sets for the statute of limitations on enforcement of the sentence.

(6) The provisions referred to in Paragraphs 2 to 5 of this Article shall also be applied to the statute of limitations on enforcement of security measures.

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**Criminal Prosecution and Enforcement of Sentences not Subject to Statute of  
Limitations  
Article 20**

Criminal prosecution and enforcement of sentences shall not be subject to the statute of limitations on criminal offences that, pursuant to international laws, are not subject to the statute of limitations.

**V C H A P T E R F I V E  
C R I M I N A L O F F E N C E**

**Criminal Offence  
Article 21**

Criminal offence is an unlawful act that is prescribed as a criminal offence by law, the characteristics of which are specified by law and for which a criminal sanction is prescribed by law.

**Manner of Perpetrating Criminal Offence  
Article 22**

- (1) Criminal offence can be perpetrated by an act or an omission to act.
- (2) Criminal offence is perpetrated by an omission to act when the perpetrator, who is legally bound to avert the occurrence of a legally specified consequence of a criminal offence, fails to do so, and such failure to act is tantamount in its effect and significance to the perpetration of such an offence by an act.

**Time of Perpetrating Criminal Offence  
Article 23**

Criminal offence is perpetrated at the time the perpetrator acted or was bound to act, irrespective of the time when the consequence of his action or omission to act occurred.

**Place of Perpetrating Criminal Offence  
Article 24**

- (1) Criminal offence is perpetrated both at the place where the perpetrator acted or was bound to act, and at the place where the consequence of his action or omission to act fully or partially occurred.

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(2) Criminal offence in the case of a punishable attempt is perpetrated both at the place where the perpetrator acted or was bound to act, and at the place where the consequence of his action or omission to act fully or partially ought to have occurred according to the perpetrator's premeditation.

(3) Criminal offence in cases of complicity is perpetrated at the place specified in Paragraph 1 of this Article and at the place where the accomplice acted or was bound to act, or at the place where the consequence of his action or omission to act ought to have occurred according to the premeditation of the accomplice.

### **Insignificant Offence** **Article 25**

An insignificant offence, although having legal characteristics of a criminal offence, shall not constitute a criminal offence due to the manner of its perpetration, insignificance or inexistence of detrimental consequences and low degree of culpability of its perpetrator.

### **Self-Defence** **Article 26**

(1) An act committed in self-defence shall not be considered a criminal offence.

(2) Self-defence is considered to be necessary if it is absolutely necessary for the defender to avert a coinciding or directly imminent illicit attack from himself or from another, and which is proportionate to the attack.

(3) If the perpetrator exceeds the limits of self-defence, a lenient punishment may be imposed, and if the excess occurs due to strong irritation or fright caused by the attack, the punishment can be remitted.

### **Last Resort** **Article 27**

(1) An act committed out of last resort shall not be considered a criminal offence.

(2) An act is committed out of last resort, if committed for the purpose of averting from himself or from another an immediate or directly imminent and unprovoked danger that could not have been averted in any other way, provided that the harm resulting from such act did not exceed the harm threatened.

(3) If the perpetrator himself has negligently provoked the danger, or has exceeded the limits of last resort, the court may impose reduced punishment on him, and if he exceeded the limits under particularly mitigating circumstances, the punishment may be remitted.

(4) There is no last resort if the perpetrator was under an obligation to expose himself to the danger.

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**Force and threat**  
**Article 27a**

(1) A criminal offence perpetrated under irresistible force shall not constitute a criminal offence.

(2) A perpetrator who has perpetrated a criminal offence under resistible force or threat may be sentenced to a more lenient punishment.

(3) In the case specified in Paragraph (1) herein, the person who has applied irresistible force shall be considered a perpetrator of the criminal offence.

**Attempt**  
**Article 28**

(1) Whoever intentionally commences execution of a criminal offence, but does not complete such offence, shall be punished for the attempted criminal offence when, for the criminal offence in question, the punishment of imprisonment for a term of three years or a more severe punishment may be imposed, and for the attempt of another criminal offences when the Code expressly prescribes punishment of the attempt alone.

(2) An attempted criminal offence shall be punished within the limits of the punishment prescribed for the same criminal offence perpetrated, but the punishment may also be reduced.

**Inappropriate Attempt**  
**Article 29**

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

**Voluntary Abandonment of Attempt**  
**Article 30**

(1) A perpetrator, who attempted to commit a criminal offence but voluntarily abandoned the execution of a punishable attempt, may be released from punishment.

(2) In the event of voluntary abandonment of a punishable attempt, the perpetrator shall be punished for those acts that constitute other separate criminal offences.

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### **Accomplices**

#### **Article 31**

If several persons who, by participating in the perpetration of a criminal offence or by taking some other act by which a decisive contribution has been made to its perpetration, have jointly perpetrated a criminal offence, shall each be punished as prescribed for the criminal offence.

### **Incitement**

#### **Article 32**

(1) Whoever intentionally incites another to perpetrate a criminal offence, shall be punished as if he himself has perpetrated such offence.

(2) Whoever intentionally incites another to perpetrate a criminal offence for which a punishment of imprisonment for a term of three years or a more severe punishment is prescribed by the Code, and the criminal offence has never been attempted, shall be punished as if it was the attempt of the criminal offence.

(3) Incitement to commit a criminal offence shall be construed to mean, in particular: pleading, persuading or prompting, portraying benefits of the perpetration of the criminal offence, giving or promising gifts, abusing the state of subordination or dependency, making a person believe in and keeping a person under a mistake of fact or law, deceiving.

### **Accessory**

#### **Article 33**

(1) Whoever intentionally helps another to perpetrate a criminal offence shall be punished as if he himself perpetrated such offence, but the punishment may be reduced.

(2) The following, in particular, shall be considered as helping in the perpetration of a criminal offence: giving advice or instructions as to how to perpetrate a criminal offence, supplying the perpetrator with tools for perpetrating the criminal offence, removing obstacles to the perpetration of criminal offence, and promising, prior to the perpetration of the criminal offence, to conceal the criminal offence, to hide the perpetrator, the tools used for perpetrating the criminal offence, traces of the criminal offence, or goods acquired by perpetration of the criminal offence.

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### **Limitations as to Culpability and Punishability of Accomplices** **Article 34**

- (1) The accomplice shall be considered culpable within the limits of his own intent or negligence, and the inciter and the accessory within the limits of their own intent.
- (2) The court shall refrain from imposing a punishment on an accomplice, inciter or accessory that has voluntarily prevented perpetration of the criminal offence.
- (3) Personal relations, characteristics and circumstances to which the law attaches the exclusion of culpability, or by reason of which it permits or provides for the remission of punishment or its mitigation may be taken into consideration only if they are inherent to such perpetrators, accomplices, inciters or accessories.

## **VI CHAPTER SIX** **CULPABILITY**

### **Elements of Culpability** **Article 35**

- (1) Culpability exists if at the time of the perpetration of the criminal offence the perpetrator was mentally accountable and acted with intent.
- (2) Culpability for the criminal offence exists even if the perpetrator acted out of negligence only if the Code explicitly prescribes so.

### **Mental Capacity** **Article 36**

- (1) A mentally insane person is one who, at the time of perpetrating the criminal offence, was incapable of comprehending the significance of his acts or controlling his conduct due to a lasting or temporary mental disease, temporary mental disorder or retardation (mental insanity).
- (2) If the capacity of the perpetrator to comprehend the significance of his act, and his ability to control his conduct was considerably diminished due to any of the mental conditions referred to in Paragraph 1 of this Article, he may be punished less severely (considerably diminished mental sanity).
- (3) The perpetrator shall be considered culpable if, by consuming alcohol or narcotic drugs or otherwise, he brought himself into such a state of not being capable to comprehend the significance of his actions or controlling his conduct, and if prior to bringing himself into such a condition, the act was intended by him, or there was negligence on his part in relation to the criminal offence in cases where culpability is prescribed by the Code for such an offence even if perpetrated out of negligence.

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(4) The state of considerably diminished mental capacity to which the perpetrator has brought himself in the way provided under Paragraph 3 of this Article may not constitute grounds for the reduction of punishment.

### **Intent Article 37**

- (1) A criminal offence may be perpetrated with direct or indirect intent.
- (2) The perpetrator acts with direct intent when a perpetrator was aware of his act but still desired its perpetration.
- (3) The perpetrator acts with indirect intent when a perpetrator was aware that a prohibited consequence might have resulted from his action or omission to act but nevertheless consented to its occurrence.

### **Negligence Article 38**

- (1) A criminal offence may be perpetrated by advertent or inadvertent negligence.
- (2) The perpetrator acts with advertent negligence when he was aware that a prohibited consequence might have occurred as a result of his action or omission to act, but carelessly assumed that it would not occur or that he would be able to avert it.
- (3) The perpetrator acts with inadvertent negligence when he was unaware of the possibility that a prohibited consequence might have occurred, although, under the circumstances and according to his personal characteristics, he should and could have been aware of such possibility.

### **Mistake of Facts Article 39**

- (1) A person shall not be guilty if he perpetrates an offence while under an irreparable mistake of fact.
- (2) The mistake of fact shall be considered irreparable if the perpetrator, at the time of the perpetration of the criminal offence, was not aware of a legally prescribed element of the criminal offence or wrongly believed that there existed circumstances which, if they truly existed, would have made his conduct permissible.
- (3) If the perpetrator was under a mistake of fact due to negligence, that shall be considered a criminal offence perpetrated out of negligence only if the Code prescribes punishment for that criminal offence committed out of negligence.



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**Mistake of Law  
Article 40**

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

**VII CHAPTER SEVEN  
PUNISHMENTS**

**Types of Punishments  
Article 41**

- (1) Perpetrator of the criminal offence who has been found guilty may be sentenced to:
- a) Imprisonment
  - b) Long-term imprisonment
  - c) Fine.
- (2) Imprisonment may be imposed only as principal punishment.
- (3) A fine may be imposed both as a principal and as an accessory punishment.
- (4) If several punishments are prescribed for a criminal offence, only one of them may be imposed as a principal punishment.
- (5) For criminal offences motivated by greed, a fine may be imposed as an subsidiary punishment even when that is not specifically prescribed by the law or in cases where the law prescribes that the perpetrator shall be punished by imprisonment or a fine, and the court decides to impose the punishment of imprisonment as the principal punishment.

**Principal and Accessory Punishment  
Article 41a**

- (1) Imprisonment may be imposed only as principal punishment.
- (2) A fine may be imposed both as a principal and as an accessory punishment.
- (3) If both punishments are prescribed for a criminal offence, only one of them may be imposed as a principal punishment.

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(4) For criminal offences motivated by greed, a fine may be imposed as an accessory punishment even when that is not specifically prescribed by the Code or in cases where the Code prescribes that the perpetrator shall be punished by imprisonment or a fine, and the court decides to impose the punishment of imprisonment as the principal punishment.

### **Purpose of Punishment** **Article 42**

The purpose of punishment shall be the following:

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

### **Imprisonment** **Article 43**

- (1) Imprisonment may not be shorter than thirty days or longer than twenty years.
- (2) The punishment of imprisonment shall be imposed in full years and months; however, the punishment of imprisonment for a term not exceeding six months may also be meted out in full days.

### **Substitution of Imprisonment** **Article 43a**

(1) On request of the convicted person, imprisonment sentence up to one year ~~can~~ **shall** be substituted by a fine paid in a single instalment within 30 days.

(2) ~~Imprisonment shall be substituted with a fine in a way that every day of imprisonment equals one daily amount of fine or with KM 100 if the fine is to be determined in a certain amount.~~ **Imprisonment shall be substituted with a fine in a way that every day of imprisonment equals BAM 100.**

(3) If the fine is not paid within the deadline from Paragraph (1) of this Article, the Court shall make a decision on execution of imprisonment. If the fine is paid only partially, then the imprisonment will be proportional to the amount that was not paid.

**Comment [HS1]:** OG BDBiH 26/16

**Comment [HS2]:** OG BDBiH 26/16

### **Long-Term Imprisonment** **Article 43b**

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

### **Community Service** **Article 44**

- (1) When the court assesses and imposes imprisonment up to one year, at the same time it may decide that such punishment, with the consent of the accused, be replaced with community service.
- (2) The decision to replace imprisonment with community service shall be based upon the assessment that, considering all the circumstances determining the type and range of the sentence, the execution of imprisonment would not be necessary to realise the purpose of punishment, but at the same time a suspended sentence would not be sufficient to accomplish the general purpose of criminal sanctions.
- (3) Community service shall be determined for duration proportional to the imposed imprisonment, from a minimum of ten to ninety working days maximum. The period for performing community service shall be neither shorter than one month nor longer than one year.
- (4) In assessing the duration of community service, as well as the period for its performance, the court shall take into consideration the imposed imprisonment that is being substituted and the perpetrator's possibilities regarding personal circumstances and employment.
- (5) When, upon the expiry of the determined period, the convicted person has not completed or has only partly completed the community service, the court shall render a decision on the execution of imprisonment for a period proportional to the unfulfilled community service.
- (6) The substitution of imprisonment with community service may also be applied in the case of substituting a fine with imprisonment pursuant to Article 47 (*Substitution of Fine*) of this Code.
- (7) Placement in community service as to the type and the place of work shall be made by the Judicial Commission, taking into consideration the capacities and the skills of the convicted person.

### **Release on Parole Article 45**

- (1) A convicted person who has served one half of his sentence, and as an exception, a convicted person who has served one third of his imprisonment, may be released from serving the punishment of imprisonment on condition that he does not perpetrate another criminal offence before the expiration of the sentence (parole, conditional release).
- (2) A convicted person who has served one-half of his imprisonment, may be released from serving the punishment of imprisonment if in the course of serving his sentence he has improved to the point where he can reasonably be expected to behave himself well after his release from serving the punishment of imprisonment, and particularly not to perpetrate criminal offences. In determining whether to release a convicted person on parole, account shall be taken of his conduct during the term of the sentence, as well as other circumstances indicating that the purpose of the punishment has been attained.
- (3) A convicted person who has served one third of his sentence may be released on parole, provided that the conditions referred to in Paragraph 1 of this Article exist, and provided that special circumstances relating to the personality of the convicted person manifestly indicate that the purpose of the punishment has been attained.
- (4) The person punished by long-term imprisonment may be granted conditional release after three-fifths of the punishment has been served.

### **Revocation of Parole Article 46**

- (1) The court shall order revocation of parole if the convicted person, while released on parole, perpetrates one or more criminal offences for which a punishment of imprisonment for a term exceeding one year or a more severe punishment has been imposed.
- (2) The court may order revocation of parole if the parolee perpetrates one or more criminal offences for which a punishment of imprisonment for a term of up to one year has been imposed. In deciding whether to revoke the parole or not, the court shall take into special consideration the similarity in the nature of the acts perpetrated, their significance, the motives from which they were perpetrated, as well as other circumstances indicating the appropriateness of revoking parole.
- (3) When the court orders revocation of parole, it shall impose punishment considering the previously imposed sentence as an already fixed punishment. The part of the punishment that the convicted person served under the earlier sentence shall be credited toward service of the subsequent sentence, whereas the period of time spent on parole shall not be credited.

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

(5) If the parolee is convicted to imprisonment for a term up to one year, and if the court does not order revocation of parole, the term of the release on parole shall be extended for a period of time the convicted person spent serving the punishment of imprisonment.

### **Fines** **Article 47**

(1) Fines shall be imposed in daily amounts and if that is not possible, then in a fixed amount.

(2) If a fine is imposed in daily amounts, it may be a minimum of five and maximum of three hundred sixty daily amounts, whereas for offences motivated by greed, a maximum imposable fine is one thousand five hundred daily amounts, except in the cases foreseen by this Code.

(3) If a fine is imposed in a fixed amount, a minimum amount may not be less than KM 500 and a maximum one may not exceed KM 100,000, whereas for offences motivated by greed, a maximum fixed amount imposable may not exceed KM 1,000,000, except in the cases foreseen by this Code.

(4) In imposing a fine for offences motivated by greed, the court may determine a fine exceeding the maximum prescribed amount in Paragraphs 2 and 3 of this Article if the value of the illegal gain resulted from the perpetration of the offence exceeds the amount of KM 1,000,000. In such case the offender may be imposed a fine in an amount that may not exceed the double amount of the value of the illegal gain resulted from the perpetration of the offence for which he or she is being punished by a fine.

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

(6) If data referred to in the preceding Paragraph are unavailable to the court, they shall be provided by the accused within the deadline as set by the court but not later than by the closing of the main trial. If the circumstances relevant for the determination of a daily amount of fine are not made available to the court by the end of the main trial, a fine shall be imposed in a fixed amount whereby the general rules for meting out penalties shall be abided by.

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

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(8) In the verdict, the court shall determine a deadline for payment of the fine. Such deadline may not be shorter than fifteen days or longer than six months, but the court may allow in justified cases that the convict pays the fine in instalments, whereby the deadline for payment may not exceed one year.

(9) Fines imposed and collected under this Code shall belong to the budget of the Brcko District.

#### **Substitution of Fine Article 48**

(1) Fine shall not be collected by force.

(2) If a fine is not paid in full or in part within the period determined in the verdict, the court shall, without delay, issue a decision to substitute the fine by imprisonment.

(3) The fine shall be substituted by imprisonment in such a way that each daily amount started, or if the fine was imposed in a fixed amount each KM 100 started, shall be substituted by one day of imprisonment, whereby it may not exceed the prescribed punishment for that offence.

(4) If the convicted person has only paid a portion of the fine, the remaining amount will be proportionally converted into imprisonment and if he pays the remaining amount, the execution of imprisonment shall cease.

#### **General Rules for Meting out Punishments Article 49**

(1) The court shall met out the punishment within the limits provided by the Code for that particular offence, having in mind the purpose of punishment and taking into account all circumstances bearing on the severity of punishment (extenuating and aggravating circumstances), and, in particular: degree of culpability, motives for perpetrating the offence, degree of danger or injury to the protected object, circumstances under which the offence was perpetrated, past conduct of the perpetrator, his personal status and his conduct after the perpetration of the criminal offence, as well as other circumstances related to the personality of the perpetrator.

(2) A circumstance representing the characteristics of a particular criminal offence may not be taken into consideration also as an aggravating or extenuating circumstance, unless it surpasses the measure that is necessary for the existence of a criminal offence or a particular form of a criminal offence, or if there are two or more such circumstances but only one is sufficient for the existence of a more serious or less serious criminal offence. In cases when criminal offence was perpetrated out of hatred as provided in Article 2 Paragraph 37 of this Code the court will take it into consideration as an aggravating circumstance and fashion a more sever sentence unless the Code provides for harsher sentence for the aggravating form of a criminal offence.

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(3) In ruling on the punishment for the criminal offence in recidivism, the court shall take into special consideration whether the most recent offence is of the same type as the previous one, whether both acts were perpetrated out of the same motive, and it shall also consider the period of time which has elapsed since the pronouncement of the previous conviction, or since the punishment has been served or pardoned.

(4) In fixing a fine, the court shall also take into consideration the income scale of the perpetrator, taking into account the amount of his salary, his other revenues, his assets and his family liabilities.

### **Reduction of Punishment** **Article 50**

The court may set the punishment below the limit prescribed by the Code, or impose a milder type of punishment:

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

### **Limitations in Reducing Punishment** **Article 51**

(1) When the conditions for the reduction of punishment referred to in Article 50 (*Reduction of Punishment*) of this Code exist, the punishment shall be reduced within the following limits:

- a) If a punishment of imprisonment of ten or more years is prescribed as the lowest punishment for the criminal offence, it may be reduced to five years of imprisonment;
- b) If a punishment of imprisonment of three or more years is prescribed as the lowest punishment for the criminal offence, it may be reduced to one year of imprisonment;
- c) If a punishment of imprisonment of two years is prescribed as the lowest punishment for the criminal offence, it may be reduced to six months of imprisonment;
- d) If a punishment of imprisonment of one year is prescribed as the lowest punishment for the criminal offence, it may be reduced to three months of imprisonment;
- e) If a punishment of imprisonment not exceeding one year is prescribed as the lowest punishment for the criminal offence, it may be reduced to thirty days of imprisonment;

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- f) If a punishment of imprisonment is prescribed for a criminal offence without indication of the lowest limit, the court may impose a fine in lieu of imprisonment;
  - g) If a fine is prescribed as the lowest limit for the punishment for a criminal offence, it may be reduced to five daily amounts and if it is imposed in the fixed amount, it may be reduced to KM 500.
- (2) In deciding on the extent of reducing of punishments in accordance with the rules set forth in Paragraph 1 of this Article, the court shall take into special consideration the least and the most severe punishment prescribed for the particular criminal offence.

#### **Release from Punishment Article 52**

- (1) The court may release the perpetrator from punishment when such possibility is explicitly provided by the Code.
- (2) In cases when the court is authorized to release the perpetrator from punishment, the court may decide to reduce the punishment regardless of the limitations prescribed for the reduction of punishments in Article 51 (*Reduction of Punishment*) of this Code.

#### **Special Case of Releasing from Punishment for Criminal Offences Perpetrated by Negligence Article 53**

The court may release the perpetrator from punishment for a criminal offence perpetrated by negligence when the consequences of the criminal offence perpetrated affect the perpetrator so severely that imposing a punishment would obviously not serve the purpose of punishment.

#### **Concurrence of Criminal Offences Article 54**

- (1) If the perpetrator, by a single action or by several actions, has perpetrated several criminal offences, for which he is tried at the same time, the court shall firstly assess the punishment for each of the offences separately, and then proceed with imposing a compound punishment of imprisonment, long-term imprisonment or a compound fine for all the offences together.
- (2) The court shall adhere to the following rules in imposing compound punishment:
- a) If the court has meted out a punishment of long-term imprisonment or long-term imprisonment and imprisonment for criminal offences in concurrence, the compound sentence of long-term imprisonment shall be higher than each individual punishment, but shall not exceed 45 years.;



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- b) If the court has determined punishment of imprisonment for the concurrent criminal offences, the compound punishment must be higher than each of the individual punishments, but the compound punishment may not be as high as the sum of all incurred punishments, nor may it exceed a period of twenty years;
  - c) If for two or several concurrent criminal offences the court meted out punishments of imprisonment exceeding ten years, the court may pronounce a compound punishment of long-term imprisonment which shall not reach the sum of individual punishments of imprisonment.
  - d) If for each of the offences perpetrated in concurrence a punishment of imprisonment not exceeding three years is prescribed, the compound punishment may not exceed eight years;
  - e) If fines only have been meted out by court for the criminal offences in concurrence, the compound punishment must be bigger than any individual determined fine, but it may not exceed the sum of all fines meted out.
- (3) If the court has meted out punishments of imprisonment for some of the concurrent criminal offences, and fines for others, it shall impose one punishment of imprisonment and one fine, in accordance with the provisions set forth in Items b) through e) of Paragraph 2 of this Article.
- (4) The court shall impose a subsidiary punishment if it is determined for any of the concurrent criminal offences, and if it has meted out several fines, it shall impose a single fine following the provisions set forth in Item e), Paragraph 2 of this Article.
- (5) If the court has meted out a punishment of imprisonment and juvenile imprisonment for the concurrent criminal offences, it shall impose a single punishment of imprisonment as the compound sentence, applying the rules set forth in Items b) and d) of Paragraph 2 of this Article.

### **Continued Criminal Offence Article 55**

- (1) The provisions of this Code regarding concurrence of criminal offences shall not apply when the perpetrator commits a continued criminal offence.
- (2) A continued criminal offence is committed when the perpetrator intentionally commits a several identical criminal offences or offences of the same type in which, according to the manner of perpetration, the temporal connection and other material circumstances that connect them constitute a whole.
- (3) When a continued criminal offence comprises offences of the same legal description, the court shall choose the type and the extent of punishment prescribed for such criminal offence. If criminal offences of the same type are at issue, the court shall choose the type and the extent of punishment prescribed for the most serious of these offences.

### **Meting out Punishment to Convicted Person** **Article 56**

(1) If a convicted person is tried for a criminal offence perpetrated before commencing the serving of the previous sentence, or for a criminal offence perpetrated while serving a sentence of imprisonment, long-term imprisonment or juvenile imprisonment, the court shall impose a compound punishment for all criminal offences by applying provisions set forth under Article 54 (*Concurrence of Criminal Offences*) of this Code, taking the earlier sentence as an already fixed punishment. The sentence or part of the sentence, which the convicted person had already served, shall be credited towards the imposed sentence of imprisonment or long-term imprisonment.

(2) For criminal offences perpetrated during the course of serving the sentence of imprisonment, long-term imprisonment, or juvenile imprisonment, the court shall determine the perpetrator's punishment irrespective of the earlier sentence in cases when the application of the provisions set forth under Article 54 of this Code would lead to failure to achieve the purpose of punishment considering the duration of non-served portion of the previous sentence.

### **Credit for Period of Custody and Previous Punishment** **Article 57**

(1) The time spent in custody pending trial, as well as any deprivation of liberty related to the criminal offence, shall be counted as part of the sentence of imprisonment, long-term imprisonment, juvenile imprisonment or the fine.

(2) Sentence of imprisonment served by the convicted person or a fine paid by the convicted person shall be counted as a part of the sentence imposed for the criminal offence that also has the characteristics of a misdemeanour.

(3) In each counting of the credit, one day spent in custody pending trial, one day of deprivation of freedom, one day of juvenile imprisonment, one day of imprisonment, one day of long-term imprisonment and a fine of KM 100, shall be deemed equal.

### **Credit for Period of Custody and for Sentence Served Abroad** **Article 58**

The period of custody, deprivation of freedom in the course of an extradition procedure, as well as the sentence which the perpetrator served upon a judgement of a foreign court, shall be credited toward serving of the sentence imposed by the domestic court for the same criminal offence, whereas if the punishments are not of the same kind, the deduction of the punishment served abroad shall be effected in a way the court finds fit.

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## **VIII CHAPTER EIGHT REPRIMAND**

### **Types of Reprimands Article 59**

Reprimand shall mean a suspended sentence.

### **Purpose of Suspended Sentence Article 60**

The purpose of a suspended sentence is to give a perpetrator of a criminal offence a reprimand with a threat of punishment (suspended sentence), which achieves the purpose of criminal sanctions by pronouncing a punishment without executing it, when the execution of punishment is not necessary to ensure legal protection.

### **Suspended Sentence Article 61**

(1) When it imposes a suspended sentence, the court imposes a sentence on the perpetrator of criminal offence, but at the same time it orders that the sentence shall not be carried out if the convicted person does not perpetrate another criminal offence over a period of time established by the court, and which may not be shorter than one or longer than five years (probation period).

(2) In deciding whether to impose a suspended sentence, the court shall, taking into account the purpose of the suspended sentence, pay special attention to the personality of the perpetrator, his conduct in the past, his behaviour after the perpetration of the criminal offence, the degree of culpability and other circumstances under which the criminal offence has been perpetrated.

### **Conditions for Imposing Suspended Sentence Article 62**

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

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

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(3) If the perpetrator has been both sentenced to imprisonment and fined, the suspended sentence may be imposed either for both sentences or only for the sentence of imprisonment.

(4) Security measures, ordered alongside a suspended sentence, shall be executed.

### **Obligations of Perpetrators under Suspended Sentence**

#### **Article 63**

(1) Together with imposing a suspended sentence, the court may order the following obligations: that the convicted person returns the gain acquired by the perpetration of the criminal offence, that the convicted person compensates for the damage caused by the perpetration of the criminal offence, or that the convicted person fulfils other obligations provided for in criminal legislation of the Brcko District.

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

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

#### **Article 64**

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

(2) If the convicted person perpetrates one or more criminal offences during the probation period for which the sentence of imprisonment for a term not exceeding two years or a fine has been imposed, the court shall decide, upon consideration of all circumstances related to the criminal offences perpetrated as well as to the perpetrator, particularly the possible similarity of the perpetrated offences, their significance and motives from which the offences have been perpetrated, whether to revoke the suspended sentence. In taking such decision, the court is bound by the prohibition on imposing a suspended sentence if a sentence of imprisonment for a term exceeding two years (Article 62, *Suspended Sentence*, Paragraphs 2 and 3 of this Code) needs to be imposed on the perpetrator for the criminal offence for which the suspended sentence was imposed and for new criminal offences.

(3) In the event of revocation of the suspended sentence, the court shall impose one compound sentence both for the previously perpetrated and the new criminal offence, pursuant to the provisions of Article 54 (*Concurrence of Criminal Offences*) of this Code, taking the sentence from the revoked suspended sentence as already fixed.

(4) In the event that the court does not revoke the suspended sentence, it may impose a suspended sentence or a punishment for a newly perpetrated criminal offence. If the court decides that a suspended sentence should be imposed for the newly perpetrated criminal offence as well, the court shall apply provisions set forth under Article 54 of this Code to

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impose one compound sentence both for the previously perpetrated and the new criminal offence and it shall also determine new probation period which can not be shorter than one or longer than five years, commencing on the day the new sentence became effective. If the court imposes a sentence of imprisonment for the new criminal offence, the period of time spent serving that sentence of imprisonment shall not be deducted from the probation period established by the suspended sentence for the previously perpetrated criminal offence.

#### **Revocation of Suspended Sentence due to Previously Perpetrated Criminal Offence Article 65**

(1) The court shall revoke a suspended sentence in case that, after it was imposed, it learned that the perpetrator had perpetrated a criminal offence prior to the imposition of the suspended sentence, and it is felt by the court that there would have not been enough grounds for the imposition of a suspended sentence had the existence of that offence been known. In such case, the provision set forth under Article 64 (*Revocation of Suspended Sentence Due to New Criminal Offence*) Paragraph 3 of this Code shall be applied.

(2) If the court does not revoke a suspended sentence, it shall apply the provision set forth under Article 64, Paragraph 4 of this Code.

#### **Revocation of Suspended Sentence caused by Failure to Fulfil Imposed Obligations Article 66**

(1) The court shall revoke the suspended sentence and order the execution of the imposed punishment if the convicted person, within the course of the determined probation period, does not fulfil the obligations imposed on him in cases where he could have fulfilled them.

(2) In the case of the impossibility of fulfilling the imposed obligations, the court may extend the deadline for the performance of the obligations, or may replace such obligations with other obligations provided for in criminal legislation of the Brcko District, or relieve the convicted person from the obligations.

#### **Deadlines for Revocation of Suspended Sentence Article 67**

(1) A suspended sentence may be revoked during the probation period.

(2) If a convicted person perpetrates a criminal offence entailing revocation of the suspended sentence during probation period, but it is established by judgement only after the expiration of the probation period, the suspended sentence may be revoked no later than one year after the probation period has expired.

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(3) If a convicted person fails to fulfil certain obligation referred to in Article 63 (*Obligations of Perpetrators under Suspended Sentence*) Paragraph 1 of this Code within the determined deadline, the court may revoke the suspended sentence no later than one year after the expiration of the probation period, and order execution of the punishment imposed as the suspended sentence.

### **Suspended Sentence with Protective Supervision** **Article 68**

(1) The court may order that a perpetrator who has been subject to a suspended sentence is placed under protective supervision if, upon having considered the circumstances of the criminal offence, personality of the perpetrator, his earlier conduct and his behaviour after perpetrating the criminal offence, it has drawn a conclusion that it would contribute to achieving more efficiently the purpose of suspended sentencing and social rehabilitation of the convicted person.

(2) Protective supervision encompasses measures of assistance, care, supervision and protection outlined under this Code, provided that this protective supervision does not last less than six months or more than two years.

### **Contents of Protective Supervision** **Article 69**

Protective supervision may include the following obligations:

- a) Treatment in an appropriate health institution;
- b) Abstaining from alcoholic drinks or intoxicating drugs;
- c) Attending particular psychiatric, psychological or other counselling centres and acting in accordance with their instructions;
- d) Training for a certain vocation;
- e) Accepting employment which is appropriate to the skills and abilities of the perpetrator;
- f) Disposing with the salary or other income and property in an appropriate way and in accordance with marital or family obligations.

### **Ordering Protective Supervision** **Article 70**

(1) The court may impose one or several obligations set forth under Article 69 (*Contents of Protective Supervision*) of this Code, closely defining what exactly they cover.

(2) When selecting the obligations referred to in Article 69 of this Code, the court shall take into special consideration the age of the perpetrator, his general physical and mental condition, his life inclinations and habits, especially at home, in school or at work, the

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motives for perpetrating the criminal offence and his conduct after perpetrating the criminal offence, his earlier life, personal and family circumstances, as well as other circumstances related to the personality of the perpetrator which are important for deciding on the measure of protective supervision and its duration.

(3) If during protective supervision the court establishes that the purpose of the protective supervision has been attained, it may terminate the protective supervision before its expiration.

(4) If a convicted person who has been subject to the protective supervision fails to fulfil obligations imposed on him by the court, the court may warn him or may replace earlier obligations with other or extend the protective supervision within the probation period, or may revoke the suspended sentence.

## **IX CHAPTER NINE SECURITY MEASURES**

### **Types of Security Measures Article 71**

The following security measures may be imposed on perpetrators of criminal offences:

- a) Mandatory psychiatric treatment,
- b) Mandatory medical treatment of addiction,
- c) Prohibition to carry out a certain occupation, activity or duty,
- d) Prohibition to drive a motor vehicle,
- e) Forfeiture.

### **Purpose of Security Measures Article 72**

The purpose of security measures is to remove situations or conditions that might influence a perpetrator to perpetrate criminal offences in the future.

### **Imposing Security Measures Article 73**

The court may impose one or several security measures on a perpetrator of a criminal offence, when grounds for imposing them exist under this Code.

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### **Mandatory Psychiatric Treatment** **Article 74**

(1) The security measure of mandatory psychiatric treatment may be imposed to a perpetrator who perpetrates a criminal offence in a state of considerably diminished mental capacity or diminished mental capacity, if there is a danger that the causes of such a state may in the future also induce the perpetrator to perpetrate another criminal offence.

(2) The security measure of mandatory psychiatric treatment may, under the conditions provided for in Paragraph 1 of this Article, be carried out during imprisonment or along with community service, or a suspended sentence.

(3) The security measure of mandatory psychiatric treatment shall last until the termination of the reason for which it has been imposed, but no longer than the completion of serving imprisonment sentence or the completion of community service or the expiry of the probation period accompanying a suspended sentence.

(4) *Deleted, OG BDBiH 21/10*

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

(6) The perpetrator of a criminal offence, who does not submit himself to psychiatric treatment during a probation period set in a suspended sentence, may be treated pursuant to the provision of Article 66 (*Revocation of Suspended Sentence Caused by Failure to Fulfil Imposed Obligations*) of this Code.

### **Mandatory Medical Treatment of Addiction** **Article 75**

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

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

(3) *Deleted, OG BDBiH 21/10.*

(4) Under the conditions provided for in Article 74 (*Mandatory Psychiatric Treatment*) Paragraph 2 of this Code, after a convicted person has been conditionally released, his



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mandatory treatment of addiction may continue outside an institution. If he does not continue the treatment, his conditional release shall be revoked.

(5) The perpetrator of a criminal offence, who does not submit himself to the treatment of addiction during a probation period set in a suspended sentence, may be treated pursuant to the provision of Article 66 (*Revocation of Suspended Sentence Caused by Failure to Fulfil Imposed Obligations*) of this Code.

### **Ban on Carrying out Certain Occupation, Activity or Duty** **Article 76**

(1) The security measure of ban on carrying out a certain occupation, activity or duty may be imposed to a perpetrator who perpetrates a criminal offence related to his occupation, activity or duty, if there is a danger that such role could induce the perpetrator to perpetrate new criminal offense in connection with his occupation, activity or duty.

(2) The security measure of ban on carrying out a certain occupation, activity or duty may be imposed for a term which exceeds one but does not exceed ten years, counting from the date the decision becomes final, with the provision that the time spent serving the sentence of imprisonment shall not be credited towards the term of this security measure.

(3) As in the case referred to in Article 44 (*Community Service*) Paragraph 5 of this Code, the execution of imprisonment sentence may be ordered against the perpetrator of a criminal offence who, while performing community service as a substitute to imprisonment, fails to act in accordance with the ban on carrying out a certain occupation, activity or duty.

(4) The perpetrator of a criminal offence who does not act in accordance with the ban on carrying out a certain occupation, activity or duty during the probation period set in a suspended sentence, may be treated pursuant to the provision of Article 66 (*Revocation of Suspended Sentence Caused by Failure to Fulfil Imposed Obligations*) of this Code.

### **Ban on Driving Motor Vehicle** **Article 77**

(1) The security measure of ban on driving a motor vehicle may be imposed on a perpetrator of the criminal offence against traffic safety if there is a danger that by driving a motor vehicle he would repeat the criminal offence.

(2) Under the conditions set in Paragraph 1 of this Article, ban on driving a motor vehicle may pertain to a specific type or all types of motor vehicles.

(3) The security measure of ban on driving a motor vehicle may be imposed for a term which exceeds three months but does not exceed five years counting from the date the

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decision becomes final, with the provision that the time spent serving the punishment of imprisonment shall not be credited towards the term of this security measure.

(4) Provisions of Article 44 (*Community Service*) Paragraph 5 and Article 66 (*Revocation of Suspended Sentence Caused by Failure to Fulfil Imposed Obligations*) of this Code shall apply to the perpetrator of a criminal offence under ban on driving a motor vehicle as a substitute for imprisonment, if he fails to act in accordance with the ban on driving a motor vehicle.

### **Forfeiture Article 78**

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

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

(3) A law can regulate mandatory forfeiture of objects.

## **~~CHAPTER X DELETED~~**

## **XI CHAPTER ELEVEN GENERAL PROVISIONS ON EXECUTION OF CRIMINAL SANCTIONS**

### **Execution of Sentence of Imprisonment Article 110**

(1) The sentence of imprisonment shall be carried out in closed, semi-open or open institutions for serving the sentence.

(2) The sentence of long-term imprisonment shall be carried out in the closed institution for serving the sentence.

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### **Limits as to Execution of Punishments Article 111**

A person upon whom a punishment is to be executed shall be deprived of his rights or have his rights restricted pursuant to the Code only insofar as it may be necessary to achieve the purpose of the particular sentence.

### **Labour by Convicted Persons Article 112**

- (1) A person sentenced to imprisonment or long-term imprisonment, if able to work, may work if he consents to it.
- (2) If a convicted person requests or consents to work, carrying out of such work shall be enabled.
- (3) The work of convicted persons should be useful and should correspond as much as possible to the contemporary way of performing the same kind of work at liberty, and to the professional and other abilities of convicted persons.

### **~~Article 113 DELETED~~**

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

### **Basis for Confiscating Material Gain Acquired Through Perpetration of Criminal Offence Article 114**

- (1) Nobody is allowed to retain material gain acquired by the perpetration of a criminal offence.
- (2) The gain referred to in Paragraph 1 of this Article shall be confiscated by the court decision, which established the perpetration of a criminal offence, under the terms set forth under this Code.

### **Expanded Confiscation of Material Gain Acquired Through Perpetration of Criminal Offence Article 114a**

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In cases of criminal proceedings for criminal offences referred to in chapters XVIII, XXII, XXIII, XXIX and XXXI of this Code, the court can also decide, on basis of Article 114 Paragraph 2, to order confiscation of material gain for which the prosecutor provides sufficient evidence that there is reasonable suspicion that it was acquired through execution of these criminal offences, and the accused person did not provide evidence to prove that the material gain was acquired legally.

**Ways of Confiscating Material Gain Acquired Through Perpetration of Criminal Offence**  
**Article 115**

(1) All the money, valuable objects and every other material gain acquired by the perpetration of a criminal offence shall be confiscated from the perpetrator, and in case the confiscation is not feasible - the perpetrator shall be obliged to pay an amount of money which corresponds to the acquired material gain. Material gain acquired by perpetration of a criminal offence may be confiscated from persons to whom it has been transferred without compensation or with a compensation which does not correspond to the real value, if the persons knew or could have known that the material gain had been acquired by the perpetration of a criminal offence.

(2) If proceeds of a criminal offence have been merged with property acquired from legitimate sources, such property shall be liable to confiscation not exceeding the assessed value of the material gain acquired through perpetration of a criminal offence.

(3) Income or other benefits derived from the proceeds of a criminal offence, from property into which proceeds of criminal offence have been converted, or from property with which proceeds of criminal offence have been merged shall also be subject to the measures referred to in this Article, in the same manner and extent as the proceeds of the criminal offence.

**Protection of Injured Party**  
**Article 116**

(1) If criminal procedure has resulted in awarding property claims to the injured party, the court shall order the confiscation of material gain if it exceeds the awarded property claim of the injured party.

(2) The injured party who has been directed to initiate civil litigation in the course of criminal proceedings regarding his property claim, may demand that he be reimbursed from the amount of the confiscated value, provided that the civil case is started within six months from the day when the decision by which he has been directed to litigate took effect and if he demands to be compensated from the confiscated value within three months from the day when his claim was legally established.

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(3) An injured party who did not report a property claim during the course of a criminal proceeding may demand compensation from the confiscated value, if he has begun litigating his claims within three months from the day when he found out about the judgement which confiscates a material gain, but no longer than within two years from the day when the decision on the confiscation of material gain took effect, and if within three months from the day when the decision by which his claim was established he demands compensation from the confiscated value.

### **Taking Effect of Legal Consequences Incident to Conviction Article 117**

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

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

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

### **Types of Legal Consequences Incident to Conviction Article 118**

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

- a) Cessation of the performance of particular jobs or functions in governmental agencies, business enterprises or other legal persons;
- b) Termination of employment or cessation of the performance of a particular office, title or position;
- c) Confiscation of permits or approvals issued by an authority or status recognized by the decision of the authority;
  - a) Deprivation of decorations.

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

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

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### **Beginning and Duration of Legal Consequences Incident to Conviction Article 119**

- (1) Legal consequences incident to conviction shall take effect on the day of effectiveness of the sentence.
- (2) Legal consequence incident to conviction which consist of prohibition of acquisition of particular right may not exceed ten years from the day on which the punishment has been served, pardoned, or has fallen under the statute of limitations, except for certain legal consequences for which law provides a shorter period of duration.
- (3) Legal consequences incident to conviction shall cease by the deletion of the sentence.

### **Termination of Security Measures and Legal Consequences Incident to Conviction Pursuant to Court Decision Article 120**

- (1) The court may decide to discontinue the application of the security measure of a prohibition to carry out a certain occupation, activity or duty, if three years have elapsed from the day on which the security measure took effect.
- (2) The court may decide to terminate the legal consequence of a sentence consisting in the bar on the acquisition of a certain right after the lapse of three years from the day on which the sentence has been served, pardoned or fallen under the statute of limitations.
- (3) In deciding whether to order the termination of a security measure or a legal consequence incident to conviction, the court shall take into account the conduct of the convicted person after the conviction, his readiness to compensate damage caused by the perpetration of a criminal offence and to return material gain acquired by the perpetration of a criminal offence, as well as other circumstances which indicate the justifiability of the termination of a security measure or a legal consequence incident to conviction.
- (4) The termination of legal consequences incident to conviction shall in no way affect the rights of third parties originating from the judgement.

## **XIII CHAPTER THIRTEEN REHABILITATION, AMNESTY, PARDON AND DELETION OF CONVICTION**

### **Rehabilitation Article 121**

- (1) Following the served sentences of imprisonment, long-term imprisonment or juvenile imprisonment or after being pardoned, or after the punishment had fallen under the statute of limitations, convicted persons shall freely enjoy all rights provided by the constitution, law and other regulations, and may acquire all rights other than those whose

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exercise is limited as a result of a security measure imposed on them or a legal consequence of the conviction.

(2) The provision of Paragraph 1 of this Article shall also apply to persons on parole, unless their rights are limited by special provisions on release on parole.

#### **Amnesty Article 122**

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

(2) An amnesty shall be granted by virtue of law.

#### **Pardon Article 123**

(1) By means of pardon, specifically designated persons shall be given complete or partial release from the execution of punishment, substitution of the imposed punishment for a less severe one or a suspended sentence, deletion of the conviction, or annulment or shortening the duration of the security measure of prohibition to carry out a certain occupation, activity or duty, or a ban on driving a motor vehicle for the perpetrators who are professional drivers, or a certain legal consequence incident to conviction.

#### **Impact of Amnesty and Pardon on Third Parties Article 124**

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

#### **Deleting Conviction Article 125**

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

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

- b) A suspended sentence shall be deleted from the criminal record after the period of one year from the expiration of the probation period has elapsed, unless the person convicted has perpetrated another criminal offence within that period.
- c) A fine and imprisonment for a term not exceeding one year shall be deleted from the criminal records after the lapse of the period of three years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.
- d) A sentence of imprisonment for a term between a year and three years shall be deleted from the criminal records after the lapse of the period of five years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitations, provided that the convicted person does not perpetrate a new criminal offence within that period.
- e) A sentence of imprisonment for a term between three years and five years shall be deleted from the criminal records after the lapse of the period of ten years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitation, provided that the convicted person does not perpetrate a new criminal offence within that period.
- f) A sentence of imprisonment for a term between five years and ten years shall be deleted from the criminal records after the lapse of the period of fifteen years from the day on which the punishment has been executed, pardoned or amnestied, or barred by the statute of limitation, provided that the convicted person does not perpetrate a new criminal offence within that period.
- (2) Upon appeal by a convicted person, the court may decide to delete a sentence of imprisonment for a term exceeding ten years, if a period of twenty years has expired from the day on which the punishment has been served, pardoned or amnestied, or barred by the statute of limitations, provided that the convicted person has not perpetrated a new criminal offence within that period.
- (3) In deciding on deleting the sentence, the court shall take into account the conduct of the convicted person after serving his sentence, the nature of the criminal offence, and other circumstances that might be relevant to the evaluation of the justifiability of the deletion.
- (4) A sentence of long-term imprisonment may not be deleted from the criminal records.
- (5) A sentence may not be deleted from the criminal records during criminal proceedings on a new criminal offence.
- (6) A sentence cannot be deleted from the criminal records neither during application of security measures nor before full completion of confiscation of material gain acquired through criminal activities.
- (7) Upon the deletion of the sentence from the criminal records under the conditions referred to in Paragraphs 1 through 3, it shall be considered that the perpetrator of the criminal offence has no prior convictions.



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### **Criminal Records Data Article 125a**

- (1) Data from the criminal records are not public data.
- (2) A citizen has the right to request and obtain data about him from the criminal records if these data are necessary for exercising his rights and interests.
- (3) Replacement of the imposed fine with a community service or imprisonment, as well as replacement of imprisonment with the community service or fine shall be registered in the criminal records.

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

### **Liability of Legal Persons Article 126**

- (1) This Chapter of this Code regulates liability of a legal person, with the exclusion of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska, Brcko District of Bosnia and Herzegovina, canton, town, municipality and local community, for a criminal offence perpetrated by the perpetrator in the name of, for account of or in favour of the legal person.
- (2) This Chapter of this Code regulates punishments and other criminal sanctions that may be imposed on a legal person, as well as legal consequences of the sentence for a criminal offence imposed on the legal person.
- (3) The application of some punishments or other criminal sanctions that may be imposed on legal persons may be excluded or limited under the conditions stipulated by law and for certain legal persons.
- (4) Criminal procedure against business enterprises shall be conducted according to the Criminal Procedure Code of Brcko District of Bosnia and Herzegovina.

### **Territorial Applicability of this Code in relation to Liability of Legal Person Article 127**

- (1) Domestic and foreign legal persons shall, pursuant to this Code, be liable for criminal offences perpetrated within the territory of the Brcko District.
- (2) Domestic and foreign legal persons shall, pursuant to this Code, also be liable for a criminal offence perpetrated outside the territory of the Brcko District if the legal person has its seat in the territory of the Brcko District or if it carries out its activities in the territory of the Brcko District, if the offence was perpetrated against the Brcko District, its citizens or domestic legal persons.

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(3) Pursuant to this Code a domestic legal person shall also be liable for a criminal offence perpetrated outside the territory of the Brcko District against a foreign state, foreign citizens or foreign legal persons, subject to the conditions referred to in Article 11 of this Code.

### **Basis of Liability of Legal Person Article 128**

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

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

### **Scope of Liability of Legal Person for Criminal Offence Article 129**

(1) Under conditions referred to in Article 128 (*Basis of Liability of Legal Person*) of this Code, a legal person shall also be liable for a criminal offence when the perpetrator is not guilty for the perpetrated criminal offence.

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

(3) For criminal offences perpetrated out of negligence, a legal person may be liable under the conditions referred to in Article 128, Item d) of this Code, and in that case the legal person may be punished less severely.

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

### **Liability Incident to Change of Status of Legal Person Article 130**

(1) A legal person under bankruptcy may be liable for a criminal offence regardless of whether the criminal offence was perpetrated before the beginning of the bankruptcy proceedings or in the meantime, but no punishment may be imposed on a legal person

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under bankruptcy, but only the security measure of forfeiture or the confiscation of material gain acquired through perpetration of a criminal offence.

(2) In the event that the legal person has ceased to exist before the criminal proceedings are completed with a final judgement, and in the criminal proceedings that legal person was found liable, punishments and other criminal sanctions shall be imposed on the legal person which is its legal successor, if its managerial or supervisory bodies had knowledge of the perpetrated criminal offence before the cessation of existence of the legal person.

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

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

#### **Liability of Legal Person for Attempt Article 131**

(1) If the perpetrator commences the execution of a planned criminal offence, but does not complete such offence, under the terms of Article 128 (*Basis of Liability of Legal Person*) of this Code, the legal person shall be liable where the Code prescribes that the attempt is punishable.

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

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

#### **Continued Criminal Offence and Liability of Legal Person Article 132**

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

#### **Complicity of Legal Persons Article 133**

(1) In the event that two or more legal persons are found to have partaken in the perpetration of a criminal offence, each shall be subject to liability pursuant to Article 128 (*Basis of Liability of Legal Person*) of this Code.

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

**General Reasoning for Less Severe Punishment of Legal Person or Release from Punishment**  
**Article 134**

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

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

**Punishment for Legal Persons**  
**Article 135**

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

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

**Fines for Legal Persons**  
**Article 136**

(1) Fines imposable on a legal person shall be no less than KM 5,000 and shall not exceed KM 5,000,000.

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

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

**Seizure of Property**  
**Article 137**

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

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

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

### **Dissolution of Legal Person Article 138**

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

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

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

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

### **Meting out Punishment for Legal Persons Article 139**

(1) When meting out punishment for a legal person, in addition to the general rules of meting out punishments referred to in Article 49 (*General Principles of Meting out Punishments*) of this Code, the economic power of the legal person shall also be taken into account.

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

### **Imposing Suspended Sentence on Legal Person Article 140**

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

(2) When imposing a suspended sentence the court may impose on the legal person a fine not exceeding KM 1,500,000, but at the same time decide that the same shall not be executed unless the legal person becomes liable for other criminal offences within the legally set period of time not shorter than one year or longer than five years.

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### **Security Measures for Legal Persons** **Article 141**

In addition to the security measure of forfeiture referred to in Article 78 (*Forfeiture*) of this Code, the following security measures may be imposed for criminal offences perpetrated by legal persons:

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

### **Publication of Judgement** **Article 142**

(1) The security measure of a judgement publication shall be ordered in case it would be useful for the public to learn about the judgement, especially if the announcement would be useful in order to remove a threat to life or health of people or to provide for safety of traffic or for protection or encouragement of social values.

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

### **Ban on Certain Activities** **Article 143**

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

(2) The security measure referred to in Paragraph 1 of this Article may be imposed on a legal person if its further performing of a certain activity would present a threat to life and limb of people or be prejudicial to the economic and financial operation of other persons or detrimental to the economy, or if the legal person has already been sentenced for the same or a similar criminal offence over the past two years preceding the perpetration of the criminal offence.

(3) The security measure referred to in Paragraph 1 of this Article may be imposed for a period of six months to five years, commencing on the day of the entering into force of the judgement.

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### **Confiscating Material Gain from Legal Person Article 144**

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

### **Legal Consequences Incident to Conviction of Legal Person Article 145**

- (1) Legal consequences incident to conviction of a legal person are:
  - a) Bar on work based on a permit, authorisation or concession issued by the authorities of foreign countries;
  - b) Bar on work based on a permit, authorisation or concession issued by the institutions of the Brcko District.
- (2) Legal consequences incident to conviction of a legal person may take effect even when a fine has been imposed on a legal person for the perpetration of a criminal offence.

### **Statute of Limitations Regarding Prosecution and Execution of Criminal Sanctions Imposed on Legal Persons Article 146**

- (1) Article 15 (*Statute of Limitations Regarding the Criminal Prosecution*) of this Code shall apply to the statute of limitations regarding prosecution of a legal person.
- (2) The execution of a sentence imposed on the legal person shall fall under the statute of limitations when the following periods from the date of the entry into force of the judgement whereby such punishment has been imposed have elapsed:
  - a) Three years for execution of a fine;
  - b) Five years for execution of the property seizure punishment and of the punishment of dissolution of legal person.
- (3) The execution of a security measure shall fall under the statute of limitations after the lapse of:
  - a) Six months from the date of entry into force of the judgement whereby the security measure of publication of the judgement was imposed;
  - b) The period that equals the time for which the security measure of prohibition to perform certain activity of the legal person was imposed.

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### **Laws Prescribing Criminal Offences of Legal Persons Article 147**

Legal persons may be held accountable for criminal offences defined in this Code and other criminal offences defined by law in Brcko District.

### **Punishments for Criminal Offences Article 148**

(1) For criminal offences for which a fine or imprisonment for a term not exceeding three years is prescribed, a legal person shall be fined up to KM 850,000 or less than tenfold amount of the damage caused or material gain acquired through the perpetration of a criminal offence.

(2) For criminal offences for which imprisonment for a term not less than three years is prescribed, a legal person shall be punished by a fine of up to KM 2,500,000 or a fine not exceeding twentyfold amount of the damage caused or material gain acquired through the perpetration of a criminal offence.

(3) For criminal offences for which imprisonment for a term of five or more years is prescribed, a property seizure punishment may be imposed on a legal person instead of a fine.

(4) For criminal offences referred to in Paragraph 1 of this Article, a punishment of dissolution of the legal person may be imposed on a legal person instead of a fine, under the requirements referred to in Article 138 (*Dissolution of Legal Person*) of this Code.

## **SPECIAL PART**

### **XVI CHAPTER FIFTEEN CRIMINAL OFFENCES AGAINST THE STATE**

#### **Attack on Constitutional Order and Order Established by Statute of Brcko District of Bosnia and Herzegovina Article 149**

Whoever, by physical force or threat of physical force, attempts to change the order of the Brcko District established by the Constitution of Bosnia and Herzegovina and the Statute of the Brcko District, or to overthrow its highest institutions, shall be sentenced to imprisonment for a term not less than five years.



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**Endangering Territorial Integrity of Brcko District of Bosnia and Herzegovina  
Article 150**

Whoever attempts to detach a part of the territory of the Brcko District by use of force or threat of force, or to conjoin a part of the territory thereof with one of the Entities, shall be sentenced to imprisonment for a term not less than five years.

**Placing Brcko District of Bosnia and Herzegovina in State of Subordination or  
Dependency  
Article 151**

A citizen of the Brcko District who attempts to place the Brcko District in the state of subordination to or dependency on another country, shall be sentenced to imprisonment for a term not less than five years.

**Preventing Fight against Enemy  
Article 152**

A citizen of the Brcko District who, in a time of war or armed conflict, prevents the citizens of the Brcko District or citizens of its allies from fighting against the enemy, shall be sentenced to imprisonment for a term between one and ten years.

**Service in the Army of the Enemy  
Article 153**

(1) A citizen of the Brcko District who serves in the enemy's army or other enemy's armed formations in time of war or armed conflict, or participates in a war or armed conflict as a combatant against the Brcko District or its allies, shall be sentenced imprisonment for a term not less than three years.

(2) Whoever levies citizens of the Brcko District for service in the enemy's army or other enemy's armed formations, or for participation in a war or armed conflict against the Brcko District or its allies, shall be sentenced to imprisonment for a term not less than five years.

**Aiding the Enemy  
Article 154**

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

Prepared by Halisa Skopljak

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(2) A citizen of the Brcko District, who with an aim of aiding the enemy politically or economically collaborates with the enemy at time of war, shall be sentenced to imprisonment for a term not less than three years.

### **Armed Rebellion Article 155**

(1) Whoever takes part in an armed rebellion which is aimed against the order of the Brcko District established by the Constitution of Bosnia and Herzegovina and the Statute of the Brcko District or against its highest institutions, shall be sentenced to imprisonment for a term not less than three years.

(2) Whoever organises or directs at any level the perpetration of the criminal offence referred to in Paragraph 1 of this Article, shall be sentenced to imprisonment for a term not less than five years.

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

### **Espionage Article 156**

(1) Whoever discloses, delivers or renders the secret of the Brcko District or official secret to a foreign country, foreign organisation or a person in the service thereof, shall be sentenced to imprisonment for a term between one and ten years.

(2) Whoever within the Brcko District creates an intelligence service detrimental to the Brcko District on account of a foreign country or organisation, or whoever runs such service, shall be sentenced to imprisonment for a term not less than five years.

(3) Whoever becomes a member of a foreign intelligence service, collects information for such a service or in any other way assists activities of such a service, shall be sentenced to imprisonment for a term between one and ten years.

(4) Whoever obtains the secret of the Brcko District or official secret with an aim of disclosing or delivering it to a foreign country, foreign organisation or a person in the service thereof, shall be sentenced to imprisonment for a term between one and ten years.

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

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### **Disclosing a Secret of the Brcko District of Bosnia and Herzegovina Article 157**

(1) An authorised person who in contravention of law or regulation passed on the basis of law, passes on or renders accessible the secret of the Brcko District entrusted to him, to another person,

shall be sentenced to imprisonment for a term between one and ten years.

(2) Whoever discloses or passes on to another person or mediates in disclosing information or a document which he knows to constitute the secret of the Brcko District, which he obtained in an illegal manner,

shall be sentenced to imprisonment for a term between six months and five years.

(3) If the criminal offence referred to in Paragraph 1 of this Article has been perpetrated during a state of war or imminent war danger, or if it has led to the endangerment of the security or economic power of the Brcko District, the perpetrator

shall be sentenced to imprisonment for a term not less than three years.

(4) An authorised person who perpetrates the criminal offence referred to in Paragraph 1 of this Article by negligence,

shall be sentenced to imprisonment for a term between six months and five years.

(5) There shall be no criminal offence referred to in Paragraph 2 of this Article, if somebody makes public or mediates in making public the secret of the Brcko District the contents of which are in contravention with the order of the Brcko District established by the Constitution of Bosnia and Herzegovina and the Statute of the Brcko District, with an aim of disclosing to the public facts which constitute a violation of the order established by the Constitution and the Statute or of an international agreement, provided that making it public does not undermine the security of the Brcko District.

### **Deploying and Transferring Armed Groups, Arms and Ammunition into the Territory of the Brcko District Article 158**

Whoever deploys or transfers to the territory of the Brcko District armed groups, terrorists, spies, raiders, weapons, explosives, poisons, equipment, ammunition or other material for the purpose of perpetrating criminal offences defined in this Chapter of this Code,

shall be sentenced to imprisonment for a term between one and ten years.

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### **Importing Hazardous Material into the Brcko District of Bosnia and Herzegovina Article 159**

- (1) Whoever, contrary to regulations, imports into the Brcko District radioactive material or other material or waste harmful to the life or health of people, shall be fined or sentenced to imprisonment for a term not exceeding three years.
- (2) Whoever, by abuse of his position or authority, contrary to regulations, enables import of radioactive or other material or waste harmful to the life or health of people into the Brcko District, shall be sentenced to imprisonment for a term between six months and five years.

### **Inducing National, Racial or Religious Hatred, Discord or Hostility Article 160**

- (1) A person who incites or fans national, racial or religious hatred, discord or hostility between constitutional nations and other residents of the Brcko District, shall be sentenced to prison from one to five years.
- (2) If the criminal offence referred to in Paragraph 1 of this Article has been committed by coercion, molestation, jeopardizing of safety, exposing to derision of national, ethnic or religious symbols, damaging belongings of another, desecrating monuments, memorials or graves, the perpetrator shall be sentenced to prison from one to eight years.
- (3) A person who commits the criminal offence referred to in Paragraph 2 of this Code through the abuse of his position or authority or if these offences resulted in disorder, violence, or other grave consequences for the joint life of constitutional nations and others living in the Brcko District, shall be sentenced to prison from one to ten years.
- (4) Materials and objects containing the message from Paragraph 1 of this Article, as well as all means for their production, copying and distribution shall be confiscated.

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### **Punishment for the Gravest Criminal Offences against the State Article 161**

(1) For a criminal offence referred to in Article 149 (*Attack on the Constitutional Order and the Order Established by the Statute of the Brcko District of Bosnia and Herzegovina*), 150 (*Endangering Territorial Integrity*), 155 (*Armed Rebellion*) and 156 (*Espionage*) of this Code, which caused the death of a person or a number of persons, or caused danger to human lives, or was coupled with heavy violence or a large-scale destruction, the perpetrator

shall be sentenced to imprisonment for a term not less than ten years or to long-term imprisonment.

(2) If in the course of perpetrating criminal offences referred to in Paragraph 1 of this Article the perpetrator intentionally deprived one or more persons of their lives, he shall be sentenced to imprisonment for a term not less than ten years or to long-term imprisonment.

### **Setting up an Association or Procuring Means for Perpetration of Criminal Offences Defined in This Chapter Article 162**

Whoever sets up an association with the goal of perpetrating a criminal offence defined in this Chapter of this Code, or whoever procures means for perpetrating a criminal offence defined in this Chapter of this Code,

shall be sentenced to imprisonment for a term between one and ten years.

## **XVII CHAPTER SIXTEEN CRIMINAL OFFENCES AGAINST LIFE AND BODY**

### **Murder Article 163**

(1) A person who deprives another person of life shall be sentenced to imprisonment for at least five years.

(2) The prison sentence of not less than ten years or long-term imprisonment shall be imposed on a person who:

- 1) deprives another person of life in a cruel or utterly insidious manner;
- 2) deprives another person of life while acting ruthlessly and violently;
- 3) deprives another person of life out of hatred;

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- 4) deprives another person of life out of greed, in order to commit or cover up another criminal offence, out of the ruthless vengeance or out of other base motives;
- 5) deprives an official or a military person of life in the exercise of their security duties or while maintaining public order, apprehending a perpetrator of a criminal offence or guarding a detained person.

#### **Homicide Caused by Irresistible Impulse Article 164**

A person who deprives another person of his life having been brought through no fault of his own into a fit of rage or fear by an attack or serious insult by the murdered person,  
shall be sentenced to prison from one to ten years.

#### **Negligent Homicide Article 165**

A person who deprives another person of life by negligence,  
shall be sentenced to prison from six months to five years.

#### **Infanticide at Childbirth Article 166**

A mother who deprives her infant of life at birth or immediately after birth while the balance of her mind was disturbed by the reason of giving birth,  
shall be sentenced to prison from one to five years.

#### **Inducing to Suicide and Assistance in Suicide Article 167**

- (1) A person who induces another to commit suicide or assists him in committing suicide, so the suicide is actually committed,  
shall be sentenced to prison from three months to five years.
- (2) A person who commits the act referred to in Paragraph 1 of this Article against a juvenile or a person whose capacity to realize significance of his actions or to control his actions was diminished,  
shall be sentenced to prison from one to ten years.
- (3) A person who commits the act referred to in Paragraph 1 of this Article against a child or against a person incapable to realize the significance of his actions or control them,  
shall be sentenced in accordance with Article 163 (*Murder*), Paragraph 1 of this Code.

Prepared by Halisa Skopljak

(In case of any issue regarding authenticity of text or translation, the local language version shall prevail)<sup>54</sup>

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(4) A person who brutally or inhumanely treats a person who is in some way subordinate to or dependent on him, as a result of which that person commits suicide, shall be sentenced to prison from six months to five years.

#### **Illicit Abortion Article 168**

(1) A person who in contravention with abortion regulations performs an abortion on a pregnant woman with her consent, commences performing an abortion, or assists her in her own miscarriage,

shall be sentenced to prison from three months to three years.

(2) A person who performs or commences performing an abortion on a pregnant woman without her consent,

shall be sentenced to prison from one to eight years.

(3) If a grievous bodily harm or a serious illness or death of the pregnant woman occurs as a consequence of the criminal act referred to in Paragraph 1 of this Article, the perpetrator

shall be sentenced to prison from six months to five years.

(4) If a grievous bodily harm or a serious illness or death of the pregnant woman occurs as a consequence of the criminal act referred to in Paragraph 2 of this Article, the perpetrator

shall be sentenced to prison sentence not less than one year.

#### **Grievous Bodily Harm Article 169**

(1) A person who inflicts grievous bodily harm upon another person or gravely impairs his health,

shall be sentenced to prison from six months to five years.

(2) A person who commits the criminal act referred to in Paragraph 1 of this Article to his spouse, cohabiting partner, or to the parent of his child with whom he does not cohabit,

shall be sentenced to prison from one to five years.

(3) A person who inflicts a bodily injury upon another person or impairs his health so gravely that the life of the injured person is endangered, or if an important part or organ of his body was destroyed or permanently and to a substantial degree impaired, or if the injured person was made permanently unable to work, or if permanent and grave damage to his health or disfigurement took place,

shall be sentenced to prison from one to ten years.

(4) A person who commits the criminal act referred to in Paragraph 1 of this Article out of hatred, shall be punished with a sentence referred to in Paragraph 3 of this Article.

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(5) If injuries referred to in Paragraphs 1 to 4 of this Article result in death of the injured person, the perpetrator

shall be sentenced to prison from one to twelve years.

(6) A person who commits the criminal act referred to in Paragraphs 1 to 3 of this Article out of negligence,

shall be sentenced to prison up to three years.

(7) A person who commits the criminal act referred to in Paragraphs 1 to 3 of this Article by irresistible impulse through no fault of his own, while under a fit of rage due to an attack or rude insult by the injured person,

shall be sentenced to prison from three months to three years.

(8) A person who commits the criminal act referred to in Paragraph 4 of this Article by irresistible impulse through no fault of his own, while under a fit of rage due to an attack or rude insult by the injured person,

shall be sentenced to prison from six months to five years.

#### **Light Bodily Injuries Article 170**

(1) A person who inflicts a light bodily injury to another person or impairs his health to a lesser extent,

shall be fined or sentenced to prison for a term not exceeding one year.

(2) A person who commits the criminal act referred to in Paragraph 1 of this Article against a spouse or a cohabiting partner, or to the parent of his child with whom he does not cohabit,

shall be sentenced to prison for a term not exceeding one year.

(3) The court may release from punishment the perpetrator of the criminal offence referred to in Paragraph 1 of this Article if the perpetrator was provoked by rude or ruthless conduct of the injured person.

#### **Participation in Brawl Article 171**

A person who participates in a brawl, which resulted in the death of a person or in inflicting of a grave bodily injury to another person, for participation itself shall be sentenced to prison from three months to three years.

#### **Failure to Render Aid Article 172**

(1) A person who fails to render aid to a person whose life is in imminent danger, although he could have done so with no danger to either himself or others,

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shall be fined or sentenced to prison up to six months.

(2) A person who causes imminent danger to the life of another person and abandons that person

shall be fined or sentenced to prison up to one year.

(3) If the criminal act referred to in Paragraph 2 of this Article resulted in the death of the person whose life was in imminent danger, or grievous bodily injuries were inflicted on that person, or grave impairment of his health, the perpetrator shall be sentenced to prison from three months to three years.

#### **Abandonment of a Helpless Person Article 173**

(1) A person who abandons a helpless person, entrusted to him or under his care, without assistance in circumstances dangerous for life and health, shall be fined or sentenced to prison up to one year.

(2) If the criminal act referred to in Paragraph 1 of this Article resulted in death of the abandoned person, or grievous bodily injury of the abandoned person, or grave impairment of health of the abandoned person, the perpetrator shall be sentenced to prison from three months to three years.

### **XVII CHAPTER SEVENTEEN CRIMINAL OFFENCES AGAINST FREEDOM AND RIGHTS OF INDIVIDUALS AND CITIZENS**

#### **Violation of Equality of Individuals and Citizens Article 174**

(1) A person who on the ground of differences in race, skin colour, national or ethnic background, religion, political or other belief, sex, sexual orientation, language, education or social status or social origins, denies or restricts the civil rights as provided by the Constitution of BiH, ratified international agreement, law, some other regulation or general act of BiH, the Statute, law, some other regulation or general act of the Brcko District or, whoever on the ground of these differences or background or other status grants unjustified privileges or does unjustified favours to individuals, shall be sentenced to imprisonment for a term between six months and five years.

(2) An official or responsible person in the Brcko District who commits a criminal offence referred to in Paragraph 1 of this Article shall be sentenced to imprisonment for a term between one and eight years.

(3) An official or responsible person in the institutions of the Brcko District, who in contravention of the regulations on the equal use of languages and alphabets of the constituent peoples and others living on the territory of the Brcko District, restricts or

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denies to a citizen the use of his language or alphabet while addressing bodies or institutions of the Brcko District, business enterprises or other legal persons in order to exercise his rights,

shall be fined or sentenced to imprisonment for a term not exceeding one year.

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

shall be sentenced to imprisonment for a term between six months and five years.

### **Prevention of Return of Refugees and Displaced Persons** **Article 175**

(1) Whoever, by use of force, serious threat or in some other illegal way, prevents refugees and displaced persons to return to their homes of origin, or to use their property of which they were deprived in the course of hostilities since 1991,

shall be sentenced to imprisonment for a term between one and ten years.

(2) Whoever participates in a group of people, which perpetrates the criminal offence referred to in Paragraph 1 of this Article,

shall be sentenced to imprisonment for a term not less than three years.

(3) Whoever organises or directs at any level the group of people, which perpetrates the criminal offence referred to in Paragraph 1 of this Article,

shall be sentenced to imprisonment for a term not less than five years.

### **Unlawful Deprivation of Freedom** **Article 176**

(1) A person who unlawfully imprisons another person, keeps him imprisoned or otherwise unlawfully deprives him of his freedom of movement,

shall be fined or sentenced to imprisonment for a term not exceeding three years.

(2) If the unlawful deprivation of freedom lasted for more than thirty days, or if the manner of the execution was cruel, or if such a treatment of the person who was illegally deprived of freedom caused grave impairment of his health, or if some other serious consequences occurred, the perpetrator

shall be sentenced to imprisonment for a term between two and eight years.

(3) If the person who has been illegally deprived of freedom lost his life as a result of the criminal offence referred to in Paragraph 1 of this Article, the perpetrator

shall be sentenced to imprisonment for a term not less than five years.

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### **Kidnapping Article 177**

(1) A person who unlawfully imprisons another person, keeps him imprisoned or otherwise deprives him of or restricts his freedom of movement with the aim to make that person or another person to do something, or to abstain from any activity, or to suffer, shall be sentenced to imprisonment for a term of six months to five years.

(2) A person who commits a criminal offence referred to in Paragraph 1 of this Article against a child or juvenile, or a person who threatens to deprive the kidnapped person of his life or to injure him severely in order to achieve the objective of the kidnapping referred to in Paragraph 1 of this Article, or if the criminal offence has been committed by a group or organised group of individuals, the perpetrator shall be sentenced to imprisonment for a term of one to ten years.

(4) The perpetrator of a criminal offence referred to in Paragraphs 1 and 2 of this Article who willingly releases the kidnapped person before his request is fulfilled for which he kidnapped the person, may be released from punishment.

### **Extortion of Testimony Article 178**

(1) An official who uses force, threat or another unlawful manner in order to extort testimony or some other statement from the suspect, the accused, a witness, a court expert or another person, while performing its official duties, shall be sentenced to imprisonment for a term of three months to five years.

(2) If a criminal offence referred to in Paragraph 1 of this Article is committed with the use of extreme violence or if the suspect or the accused suffers from particularly aggravating consequences in the criminal proceedings due to an extorted testimony, the perpetrator shall be sentenced to imprisonment for a term of one to ten years.

### **Abuse in Performance of Duties Article 179**

An official who, while performing his duties, abuses another person, inflicts him severe bodily injuries or causes his mental distress, or intimidates, or insults him shall be sentenced to imprisonment for a term of three months to five years.

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### **Endangering Safety Article 180**

(1) A person who endangers safety of another by serious threat that he will deprive him or a closely related person of life, inflict a serious bodily injury, deprive him of liberty or kidnap him, do harm by arson, explosion or by some other action or means generally known as dangerous,

shall be sentenced to prison up to six months.

(2) If the offence under Paragraph 1 of this Article was committed against an official in connection with performing of his official duties, or against several persons, or this offence has caused serious disturbance of citizens, or was committed by a group or a criminal organization, the perpetrator

shall be sentenced to prison from three months up to five years.

(3) A person who by sneaking, frequent following, or by disturbing, or in other way endangers safety of the spouse, cohabiting partner, or parent of his child, or any other person with whom he has or in the past had a close relationship

shall be fined or sentenced to prison up to one year.

### **Breach of Inviolability of Home (Trespassing) Article 181**

(1) A person who enters without authorization into home or closed premises of another person or refuses to abandon the premises upon the request of an authorized official, shall be sentenced to prison up to three years.

(2) If the criminal act referred to in Paragraph 1 of this Article has been committed by an official on duty, he

shall be sentenced to prison from three months to three years.

### **Unlawful Search Article 182**

An official person who, in performance of his duties, conducts an unlawful search of an apartment, premises or persons,

shall be sentenced to prison from three months to three years.

### **Breach of Confidentiality of Letters or Other Consignments Article 183**

(1) A person who without permission opens a letter, telegram or any other sealed writs or consignment or in any other way breaches their confidentiality, or withholds, conceals,

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destroys or delivers a sealed letter, telegram, closed writ or consignment to another person without an authorization,

shall be sentenced to prison up to six months.

(2) A person who without authorization enters a computer database containing personal data or uses such data without authorization or makes them available to another, shall be sentenced to prison up to six months.

(3) A person who commits the criminal act referred to in Paragraphs 1 and 2 of this Article to gain a benefit for himself or someone else or to inflict damage to another person,

shall be sentenced to prison up to three years.

(4) If the criminal acts referred to in Paragraphs 1, 2 and 3 of this Article have been committed by an official on duty, he shall be sentenced for the criminal act referred to in Paragraphs 1 and 2 of this Article to prison from three months to three years and for the act referred to in Paragraph 3 of this Article he shall be sentenced to prison from six months to five years.

#### **Unauthorised Revealing of Professional Secret Article 184**

(1) An attorney, defence counsel, notary, medical doctor, dentist, midwife or other health care employee, psychologist, social welfare worker, religious confessor or another person who, without authorisation, reveals the secret that he learned while performing his duties, shall be sentenced to prison up to one year.

(2) If the secret was revealed in the general interest or in the interest of another person, which is more important than the interest of keeping the secret, the act referred to in Paragraph 1 of this Article shall not represent a criminal offence.

#### **Unauthorised Tapping and Sound Recording Article 185**

(1) A person who, without authorisation, uses special devices to tap or sound record a conversation or statement which was not intended for him, or enables an uninvited person to hear the conversation or statement that was obtained by unauthorized tapping or sound recording, or a person who taps or sound records somebody else's computer messages without authorisation

shall be fined or sentenced to prison up to three years.

(2) If the criminal act referred to in Paragraph 1 of this Article has been committed by an official on duty, he

shall be sentenced to prison from six months to five years.

#### **Unauthorised Optical Recording**

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#### **Article 186**

(1) A person who photographs, films or in some other way records another person without his consent in his own premises or directly gives or presents such recording to a third person or in some other way makes the recording directly available to the third person,

shall be fined or sentenced to prison up to three years.

(2) An official who commits the criminal act referred to in Paragraph 1 of this Article on duty shall be sentenced to prison from six months to five years.

(3) A person who photographs a child or a juvenile in order to develop photographs, audio and visual material or other articles containing pornographic elements, or possesses, imports, sells, distributes or presents such material, shall be sentenced to prison from one to five years.

(4) Items that were intended for use or were used in committing the act referred to in Paragraphs 1 and 3 of this Article shall be seized, and the items obtained through perpetration of the act referred to in Paragraphs 1 and 3 of this Article shall be seized and destroyed.

#### **Preventing or Disturbing Public Gatherings**

##### **Article 187**

(1) A person who prevents or disturbs holding of a public gathering to which citizens are entitled,

shall be fined or sentenced to prison up to three years.

(2) If the act referred to in Paragraph 1 of this Article has been committed by an official through the abuse of his position or authorization, he shall be sentenced to prison from six months to five years.

#### **Preventing Printing and Dissemination of Printed Materials**

##### **Article 188**

A person who unlawfully prevents printing, sale or distribution of books, magazines, newspapers or other printed material, shall be fined or sentenced to prison up to one year.

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

##### **Article 189**

An official or responsible person in the Brcko District of Bosnia and Herzegovina who abuses his position or authority and prevents another person from exercising his right to submit an appeal, objection, request, petition or complaint,

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shall be fined or sentenced to imprisonment for a term not exceeding one year.

**Unauthorized Use of Personal Data**  
**Article 190**

An official or responsible person in the Brcko District who, without the consent of an individual and contrary to the conditions stipulated by the law, collects, processes or uses his personal data, or uses such data contrary to the statutory purpose of their collection, shall be fined or sentenced to imprisonment not exceeding six months.

**Illegal Deprivation of Identification Documents**  
**Article 190a**

Whoever, illegally deprives another of his personal or travel documents with the aim of limiting his freedom of movement or exercising power over another, shall be sentenced to imprisonment from six months to five years.

**Deprivation of Electoral Rights**  
**Article 191**

Whoever in the discharge of duty entrusted to him regarding elections for the institutions of the Brcko District of Bosnia and Herzegovina, with an aim of preventing someone from exercising suffrage, unlawfully fails to enter a name in a voting list, or strikes a name out of a voting list, or prevents a person from voting in any other way, shall be fined or sentenced to imprisonment for a term not exceeding three years.

**Violating the Free Decision-Making of Voters**  
**Article 192**

(1) Whoever, during elections for the institutions of the Brcko District or a recall vote or at a referendum, coerces a voter in the Brcko District of Bosnia and Herzegovina by use of force, serious threat, bribery or by taking advantage of his poor material position, or in any other illegal way, to vote for or against a particular candidate or for or against a list of candidates, or for or against the recall, or for or against a proposal to be decided upon at the referendum, or not to vote at all, shall be fined or sentenced to imprisonment for a term not exceeding three years.

(2) A member of election board or some other person who perpetrates the criminal offence referred to in Paragraph 1 of this Article in the discharge of duty entrusted to him regarding the elections, vote or referendum, shall be sentenced to imprisonment for a term between six months and five years.

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### **Voting Fraud Article 193**

Whoever at the elections for the institutions for the Brcko District of Bosnia and Herzegovina or for the recalling of the representatives in the institutions of the Brcko District of Bosnia and Herzegovina or at a referendum held within the Brcko District of Bosnia and Herzegovina, votes under the name and in lieu of another person, or votes or tries to vote again after having voted once, or votes despite being aware that he is not entitled to vote,  
shall be fined or sentenced to imprisonment for a term not exceeding three years.

### **Violation of Secrecy of Voting Article 194**

(1) Whoever breaches the secrecy of the vote at an election for the institutions of the Brcko District of Bosnia and Herzegovina, recall vote of representatives in the institutions of the Brcko District of Bosnia and Herzegovina or a referendum held within the Brcko District of Bosnia and Herzegovina,  
shall be fined or sentenced to imprisonment for a term not exceeding six months.  
(2) Whoever by force, serious threat or in some other illegal way demands from a citizen to state for whom and how he voted, or whether he voted for or against a recall,  
shall be fined or sentenced to imprisonment for a term not exceeding one year.  
(3) A member of election board or some other person who perpetrates the criminal offence referred to in Paragraph 1 of this Article in discharge of duty related to the elections or vote,  
shall be fined or sentenced to imprisonment for a term not exceeding three years.

### **Election Fraud Article 195**

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



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### **Destroying Election Documents Article 196**

Whoever at the elections for the institutions of the Brcko District of Bosnia and Herzegovina, a recall vote of representatives in the institutions of the Brcko District of Bosnia and Herzegovina or a referendum held within the Brcko District of Bosnia and Herzegovina destroys, conceals, damages or takes away any document concerning the elections or the recall vote, or any other object that is used for the elections or the recall vote,

shall be sentenced to imprisonment for a term between six months and five years.

## **XVIII CHAPTER EIGHTEEN CRIMINAL OFFENCES INVOLVING TERRORISM**

### **Taking Hostages Article 197**

(1) Whoever unlawfully confines, keeps confined or in some other manner deprives another person of the freedom of movement, or restricts it in some way, or detains and threatens to kill, to injure or to continue to detain as a hostage, with an aim to compel the Brcko District of Bosnia and Herzegovina, to perform or to abstain from performing any act as an explicit or implicit condition for the release of a hostage,

shall be sentenced to imprisonment for a term between one and ten years.

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

shall be sentenced to imprisonment for a term not less than five years.

(3) If, in the course of the perpetration of the criminal offence referred to in Paragraph 1 of this Article, the perpetrator deprives a hostage of his life intentionally, he shall be sentenced to imprisonment for a term not less than ten years or a long-term imprisonment.

### **Terrorism Article 198**

(1) Whoever perpetrates a terrorist act with the aim of seriously intimidating the population or compelling the authorities of the Brcko District of Bosnia and Herzegovina, to perform or abstain from performing any act, or with the aim of seriously destabilising or destroying the fundamental political, constitutional, economic or social structures or values of the Brcko District of Bosnia and Herzegovina,

shall be sentenced to imprisonment for a term not less than three years.

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(2) If the death of one or more persons resulted from the perpetration of the criminal offence referred to in Paragraph 1 of this Article, the perpetrator shall be sentenced to imprisonment for a term not less than five years.

(3) If in the course of the perpetration of the criminal offence referred to in Paragraph 1 of this Article the perpetrator intentionally deprived another person of his life, he shall be sentenced to imprisonment for a term not less than ten years or a long-term imprisonment.

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

- a) Attack upon person's life, which may cause death;
- b) Attack upon the physical integrity of a person;
- c) Unlawful confinement of, keeping confined or in some other manner depriving another of the freedom of movement, or restricting it in some way, with the aim to force him or some other person to do or abstain from doing something or to bear something (kidnapping) or taking hostages;
- d) Causing great damage to facilities of the Brcko District of Bosnia and Herzegovina, or public facilities, a transport system, infrastructure facilities, including the information system, a public place or private property, likely to endanger human lives or result in major economic loss;
- e) Hijacking of an aircraft, ship or another means of public or goods transport;
- f) Manufacture, possession, acquisition, transport, supply, use or training for the use of weapons, explosives, nuclear, biological or chemical weapons or radioactive material, as well as research into, and development of, biological and chemical weapons or radioactive material;
- g) Releasing dangerous substances, or causing fire, explosion or floods the effect of which is to endanger human lives;
- h) Interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human lives;
- i) Threatening to perpetrate any of the acts referred to in Items a) to h) of this Paragraph.

### **Funding of Terrorist Activities Article 199**

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

- ~~a) A criminal offence referred to in Article 197 (*Taking Hostages*), 198 (*Terrorism*) of this Code;~~
- ~~b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict,~~

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~~when the purpose of such act, by its nature or context, is to intimidate population, or to compel the authorities of the Brčko District of Bosnia and Herzegovina to perform or to abstain from performing any act,  
shall be sentenced to imprisonment for a term between one and ten years.~~

**(1) Whoever by any means, directly or indirectly, provides or collects funds with the aim that they are used or knowing that they are to be used, in full or in part, for the purpose of perpetrating a criminal offences referred to in Article 197 (Taking of Hostages) and Article 198 (Terrorism) of this Code and any other criminal offense that can result in death or serious bodily injury of a civilian or a person who is not actively engaged in hostilities in an armed conflict, when the purpose of such offence, by its nature or context, is to intimidate population or to compel the authorities of the Brčko District of Bosnia and Herzegovina to perform or to abstain from performing an act, regardless of the fact whether the terrorist activities have been conducted or not and whether the funds have been used for conduct of terrorist activities, shall be punished by imprisonment for a term of one to ten years.**

**(2) The punishment referred to in the Paragraph (1) of this Article will be applicable to anyone who in any manner, directly or indirectly, provides or collects or ensures funds in another way:**

**a) with a purpose that they are used in full or in part for any purposes by terrorist organizations or individual terrorists, or**

**b) knowing that they would, in full or in part, be used for the perpetration of criminal offences referred to in the Paragraph (1) of this Article by terrorist organizations or individual terrorists.**

**(3) The collected funds that are intended to be used for perpetration or have been created by perpetration of a criminal offense referred to in the Paragraph (1) of this Article, shall be confiscated.**

**(4) Funds referred to in the Paragraphs (1) and (2) of this Article are considered to be any funds, items or rights, material or non-material, moveable or real estate, regardless of their origin as well as legal documents or instruments in any form, including electronic or digital, that prove the ownership or title to property, including and not limited to bank loans, travel checks, banking checks, cash orders, shares, securities, bonds, bill of exchange and letters of credit.**

Comment [HS3]: OG 26/16

## **XIX CHAPTER NINETEEN CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM AND MORAL**

### **Rape Article 200**

- (1) A person who compels another person to sexual intercourse or an act equal to sexual intercourse by use of force or by threat of direct attack on life and body of that person, or life and body of somebody close to that person, shall be sentenced to prison from one to ten years.
- (2) If the offence referred to in Paragraph 1 of this Article was committed in an extremely brutal or humiliating way, or if several sexual intercourses, or sexual acts equal to them, involving the same victim were committed by several persons, the perpetrator shall be sentenced to prison from three to fifteen years.
- (3) If the offence referred to in Paragraph 1 of this Article resulted in death of the raped person, or grievous bodily injury, or serious impairment of health, or pregnancy of the raped person, the perpetrator shall be sentenced to at least three years of prison.
- (4) A person who commits the criminal offence referred to in Paragraph 1 of this Article out of hatred, shall be imposed the sentence referred to in Paragraph 2 of this Article.
- (5) A person who commits the criminal offence referred to in Paragraph 1 of this Article against a juvenile, shall be sentenced to at least three years of prison.
- (6) A person who commits the criminal offences referred to in Paragraphs 2, 3 and 4 of this Article against a juvenile, shall be sentenced to at least five years of prison.
- (7) If the criminal offence referred to in Paragraph 2 of this Article resulted in consequences referred to in Paragraph 3 of this Article, the perpetrator shall be sentenced to at least five years of prison.

### **Sexual Intercourse with Helpless Person Article 201**

- (1) Whoever commits a sexual intercourse, or a sexual act equal to it, against another person by taking the advantage of the person's mental illness, mental disorder, mental retardation, some other serious mental impairment, or some other condition of that person which makes him incapable to oppose, shall be sentenced to prison from one to eight years.
- (2) If the offence referred to in Paragraph 1 of this Article was committed against a person whose incapacity to oppose was caused by the perpetrator himself, or if the perpetrator participated in making the person incapable to oppose, the perpetrator

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shall be sentenced to prison from one to ten years.

(3) Whoever commits the criminal offence referred to in Paragraph 1 of this Article in an extremely brutal or humiliating manner, or if the same victim was subject to several sexual intercourses, or equal sexual acts, by several perpetrators, the perpetrator shall be sentenced to prison from one to ten years.

(4) Whoever commits the criminal offence referred to in Paragraph 2 of this Article in an extremely brutal or humiliating manner, or if the same victim was subject to several sexual intercourses, or equal sexual acts, by several perpetrators, the perpetrator shall be sentenced to prison from three to fifteen years.

(5) If the criminal offence referred to in Paragraph 1 of this Article resulted in death of the person against whom a sexual intercourse, or a sexual act equal to it, was performed, or in grievous bodily injury, serious impairment of health, or pregnancy of the female, the perpetrator

shall be sentenced to prison from one to ten years.

(6) If the criminal offences referred to in Paragraphs 3 and 4 of this Article resulted in consequences stated in Paragraph 5 of this Article, the perpetrator shall be sentenced to at least three years of prison.

#### **Sexual Intercourse through Abuse of Office Article 202**

(1) A person who abuses office to compel to sexual intercourse, or a sexual act equal to it, another person who is dependent on that person due to financial, family, social, health or some other status or difficult circumstances,

shall be sentenced to prison from three months to three years.

(2) A teacher, tutor, parent, adoptive parent, guardian, stepfather, stepmother or other person who abuses his position and performs a sexual intercourse or an act equal to it, against a juvenile entrusted to him for the purpose of teaching, education, guarding or care,

shall be sentenced to prison from six months to five years.

#### **Forced Sexual Intercourse Article 203**

A person who forces another person to sexual intercourse by use of serious threat of revealing something which would harm the honour or reputation of that person or a person close to him by use of threat of doing some other serious harm, shall be sentenced to prison from six months to five years.

### **Sexual Intercourse with Child Article 204**

(1) A person who performs sexual intercourse, or a sexual act equal to it, against a child shall be sentenced to prison from one to eight years.

(2) A person who performs a forced sexual intercourse, or a sexual act equal to it, against a child (Rape, Article 200, Paragraph 1), or against a helpless child (Sexual Intercourse with Helpless Person, Article 201, Paragraph 1), shall be sentenced to at least three years of prison.

(3) A person who commits sexual intercourse, or a sexual act equal to it, against a child through abuse of office (Sexual Intercourse through Abuse of Office, Article 202, Paragraph 2), shall be sentenced to prison from one to ten years.

(4) A person who commits the criminal offence referred to in Paragraphs 1 through 3 in an extremely brutal or humiliating manner, or if the same victim was subject to several sexual intercourses, or sexual acts equal to sexual intercourse, by several perpetrators, shall be sentenced to at least five years of prison.

(5) If the criminal offences referred to in Paragraphs 1 through 3 resulted in death of a child, or a child was severely injured, or his health was severely impaired, or it resulted in pregnancy of a female child, the perpetrator shall be sentenced to at least five years of prison or a long-term imprisonment.

### **Debauchery Article 205**

(1) A person who commits an offence involving only debauchery in the cases referred to in Article 200 (*Rape*), 201 (*Sexual Intercourse with Helpless Person*), 202 (*Sexual Intercourse through Abuse of Office*), and 203 (*Forced Sexual Intercourse*) of this Code, when there was no attempt of that criminal offence, shall be sentenced from three months to three years of prison.

(2) A person who commits an offence involving only debauchery in the case referred to in Article 204 (*Sexual Intercourse with a Child*) of this Code, when there was no attempt of that criminal offence, or a person who commits the criminal offence referred to in Paragraph 1 of this Article against a child or a minor, shall be sentenced from six months to five years of prison.

### **Satisfying Sexual Desire in Presence of Child or Minor Article 206**

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A person who commits certain acts in order to satisfy his or someone else's sexual desire in the presence of a child or a minor, or entices a child to engage in such conduct in his or someone else's presence, shall be sentenced from three months to three years of prison.

### **Enticing to Prostitution Article 207**

- (1) Whoever, in order to achieve material gain or other benefits, entices, incites or lures another into prostitution or whoever, in any way, enables turning a person over to another for the exercise of prostitution or whoever, in any way, takes part in organizing or managing prostitution, shall be punished by imprisonment for a term of between six months and five years.
- (2) No account shall be taken of any record of prostitution of any person who has been enticed, incited or lured into prostitution under this Article.

### **Human Trafficking Article 207a**

- (1) Whoever, by force or threat of force or other forms of coercion, abduction, fraud or deception, abuse of relationship or trust or vulnerability, or by giving or receiving money or other benefits to persuade a person having control over another person, recruits, transports, transfers, delivers, harbours or receives a person for the purpose of exploiting him/her, shall be punished by imprisonment for a term of not less than five years. For the purpose of this Article the exploitation shall mean: prostitution of another person or other forms of sexual exploitation, forced labour or services, slavery or similar relationship, servitude, removal of organs or body parts, or some other form of exploitation.
- (2) Whoever recruits, transports, transfers, delivers, harbours or receives a person younger than 18 years of age with the purpose of using or exploiting him/her for prostitution or other forms of sexual exploitation, forced labour or services, slavery or similar relationship, servitude, removal of organs or body parts, or some other form of exploitation, shall be punished by imprisonment for a term of not less than ten years.
- (3) If the offences referred to in paragraphs 1 and 2 of this Article were perpetrated by an official person in exercising his/her duty, s/he shall be punished by imprisonment for a term of not less than ten years.
- (4) Whoever counterfeits, obtains or issues travel or identification document or uses, seizes, holds, trades, damages, destroys travel or identification document of another person to enable trafficking in human beings, shall be punished by imprisonment for a term between one and five years.
- (5) Whoever uses services provided by a victim of trafficking, shall be punished by imprisonment for the term between six months and five years.

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(6) If due to the criminal offences referred to in paragraphs 1 and 2 of this Article caused serious health problems, grievous bodily harm, or the death of one or more persons referred to in paragraphs 1 and 2, the perpetrator shall be punished by imprisonment for a minimum term of ten years or a long-term imprisonment.

(7) Items, vehicles and facilities used for the perpetration of the offence shall be seized.

(8) The consent of the victim to exploitation shall bear no relevance to the existence of the criminal offence of human trafficking.

(9) The victim of trafficking that was forced by the perpetrator of that criminal offence to take part in committing another criminal offence, shall not be prosecuted for the offence s/he committed if his/her actions were direct consequence of his/her status of the victim of trafficking.

### **Organized Trafficking in Human Beings Article 207b**

(1) Whoever organizes or leads a group, an organised group or a criminal group which jointly perpetrates or attempts a criminal offences referred to in articles 207a of this Code, shall be punished by imprisonment for a term of at least ten years or long-term imprisonment.

(2) Whoever perpetrates a criminal offence as a member of the group referred to in paragraph 1 of this Article, shall be punished by imprisonment of at least ten years.

(3) Whoever becomes a member of a group referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term of at least one year.

(4) A member of a group referred to in paragraph 1 of this Article who divulges the group may be released of punishment.

### **Abuse of Child or Minor for Pornographic Purposes Article 208**

(1) A person who abuses a child or a minor for taking photographs, audio-visual material or other material with pornographic contents, or possesses, or imports, or sells, or distributes, or presents such material, or induces such persons to take part in a pornographic performance, shall be sentenced to prison from one to five years.

(2) Items that were intended to be used or were used in committing the criminal offence referred to in Paragraph 1 of this Article shall be confiscated, and the items produced as a result of the criminal offence of Paragraph 1 of this Article shall be confiscated and destroyed.

### **Showing Pornographic Material to Child Article 209**

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- (1) A person who sells, shows, or presents to the public, or in some other way makes available documents, photographs, audio-visual and other pornographic material, or shows a pornographic performance to a child, shall be fined or sentenced up to one year of imprisonment.
- (2) Items referred to in Paragraph 1 of this Article shall be confiscated.

**Incest  
Article 210**

- (1) A person who performs an sexual intercourse, or a sexual act equal to it, with a blood relative in direct line or with a brother or sister, shall be fined or sentenced up to one year of imprisonment.
- (2) A person who commits the criminal offence referred to in Paragraph 1 of this Article against a minor, shall be sentenced to prison from six months to five years.
- (3) A person who commits the criminal offence referred to in Paragraph 1 of this Article against a child, shall be sentenced to prison from one to eight years.

**XX CHAPTER TWENTY  
CRIMINAL OFFENCES AGAINST MARRIAGE, FAMILY AND YOUTH**

**Bigamy  
Article 211**

- (1) A person who concludes a new marriage although he is already married, shall be sentenced to prison up to one year.
- (2) A person who concludes a marriage with a person for whom he knows that is married shall be punished in accordance with Paragraph 1 of this Article.
- (3) If the previous marriage is terminated or annulled, the prosecution shall not be initiated, and if it has been initiated, it shall be suspended.

**Enabling Conclusion of Unlawful Marriage  
Article 212**

An official person or a registrar authorised for conclusion of marriage who, in performing his official duty, permits the conclusion of a marriage which is prohibited, annulled or considered ineffective by law, shall be sentenced to prison up to one year.

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### **Unlawful Cohabitation with Junior Juvenile Article 213**

- (1) An adult who unlawfully cohabits with a junior juvenile, shall be sentenced to prison from three months to three years.
- (2) The sentence referred to in Paragraph 1 of this Article shall be applied to the parent, adoptive parent or guardian who permits the juvenile aged between fourteen and sixteen to unlawfully cohabit with another person, or encourages the juvenile to do so.
- (3) If the motive for committing the offence referred to in Paragraph 2 of this Article was to achieve self-interest, the perpetrator shall be sentenced to prison from six months to five years.
- (4) If the marriage is concluded, the prosecution shall not be undertaken, and if it had been undertaken, it shall be revoked.

### **Abduction of Child or Juvenile Article 214**

- (1) A person who unlawfully abducts a child or a juvenile from a parent, adoptive parent, guardian, or from a person whom the juvenile is entrusted to, or a person who unlawfully keeps the juvenile away or prevents the juvenile from being with the person entitled to it, or a person who hinders the execution of the decision entrusting the child or juvenile to a certain person, shall be sentenced up to three years of prison.
- (2) The perpetrator who voluntarily hands over the child or the juvenile may be released from punishment by the court.

### **Change of Family Status Article 215**

A person who changes the child's family status by substitution, exchange or in some other way, shall be sentenced to prison from three months to three years.

### **Neglecting or Maltreating Child or Juvenile Article 216**

- (1) A parent, adoptive parent, guardian or other person who seriously disregards his duties of taking care or raising a child or a juvenile, shall be sentenced to prison from three months to three years.
- (2) A parent, adoptive parent, guardian or other person who maltreats the child or the juvenile, forces him to excessive work or work inadequate for his age, or forces the

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juvenile to beg or, out of self-interest persuades him to perform other actions harmful to his development, shall be sentenced as referred to in Paragraph 1 of this Article.

(3) If the offence referred to in Paragraphs 1 and 2 of this Article resulted in a serious damage of health of the juvenile, or if the child or juvenile indulged in begging, prostitution or other types of asocial behaviour or delinquency due to offences referred to in Paragraphs 1 or 2 of this Article, the perpetrator shall be sentenced to prison from three months to five years.

### **Violation of Family Obligations Article 217**

(1) A person who, by serious violation of family obligations stipulated by law, leaves in a difficult position a member of his family who is incapable of taking care of himself, shall be sentenced to prison from three months to three years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in death of the family member who was left in a difficult position, severe bodily injuries or serious impairment of health of the family member, the perpetrator shall be sentenced to prison from one to eight years.

(3) When pronouncing a suspended sentence, the court may set a condition to the perpetrator to duly perform his duties of taking care, raising and maintenance.

### **Domestic Violence Article 218**

(1) A person who endangers tranquillity, physical or mental health of a member of his family by applying violence, impudent or remorseless behaviour shall be fined or sentenced to prison to up to one year.

(2) A person who commits the offence referred to in Paragraph 1 of this Article against a family member with whom he lives in a household shall be fined or sentenced to prison to up to three years.

(3) If the person who committed the offence referred to in Paragraphs 1 and 2 of this Article used weapons, dangerous tools or other objects that can cause serious bodily injuries or health impairments, he shall be sentenced to prison from three months to three years.

(4) If the family member suffered from serious bodily injuries or serious health impairments as a result of the offence referred to in Paragraphs 1 through 3 of this Article, or if the offence referred to in Paragraphs 1 through 3 of this Article was committed against a child or a juvenile, the perpetrator shall be sentenced to prison from one to five years.

(5) If the offence referred to in Paragraphs 1 through 4 of this Article caused death of the family member, the perpetrator

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shall be sentenced to prison from two to fifteen years.

(6) A person who causes death of the family member whom he had previously abused shall be sentenced to minimum ten years or long-term imprisonment.

#### **Failure to Provide Maintenance Article 219**

(1) A person who avoids to provide maintenance to a person for whom he is obliged to do so by the effective court decision or effective settlement concluded before another competent body,

shall be sentenced to prison to up to three years.

(2) When pronouncing a suspended sentence, the court may set a condition to the perpetrator to duly pay for the maintenance, as well as to settle due costs.

(3) If the perpetrator of the offence referred to in Paragraph 1 of this Article fulfilled his obligation before the termination of the main hearing, he may be released from punishment.

#### **Preventing and Failing to Take Measures to Protect Juveniles Article 220**

(1) A person who prevents enforcement of correctional and other measures pronounced by the court and competent bodies for protection of juveniles, shall be sentenced to prison to up to one year.

(2) A responsible person working with the bodies or institutions for protection, education or professional training of juveniles, who evidently acts unconscientiously in his work and consequently seriously jeopardizes the health and growth of the juvenile, shall be sentenced to prison from three months to three years.

### **XXI CHAPTER TWENTY-ONE CRIMINAL OFFENCES AGAINST PUBLIC HEALTH**

#### **Transmitting of Contagious Disease Article 221**

(1) A person who fails to abide by regulations or orders by which the competent body of the health service prescribes check-ups, disinfection, isolation of a patient or some other

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measures for suppressing or preventing contagious diseases among people and thereby causes the transmitting of a contagious disease,  
shall be sentenced to prison up to one year.

(2) A person who fails to abide by regulations or orders referred to in Paragraph 1 of this Article concerning the suppressing or preventing of contagious diseases of animals and causes infection of people with a contagious disease, shall be sentenced in accordance with Paragraph 1 of this Article.

(3) A person who commits the offence referred to in Paragraphs 1 and 2 of this Article out of negligence,  
shall be fined or sentenced to prison up to six months.

#### **Failure to Comply with Health Care Regulations during Epidemic Article 222**

A person who during the epidemic of any contagious disease fails to abide by orders or decisions issued on the basis of the competent body's regulations which establish the measures for suppression or prevention of epidemic,  
shall be sentenced to prison up to one year.

#### **Transmitting of Venereal Diseases Article 223**

If a person who is aware of his own infection with a venereal disease transmits the disease to another person by sexual intercourse or equivalent sexual intercourse or in other way, if the offence of inflicting serious bodily injuries was not committed,  
shall be sentenced to prison up to one year.

#### **Hiring of Persons Infected with Contagious Diseases Article 224**

(1) A person who hires or keeps a person infected with a contagious disease at work, contrary to the health care regulations, thus causing danger of transmitting the contagious disease in a hospital, maternity hospital, public centre, school, business enterprise or other legal entity, craft and trade shops or a private business that deals with food products or which renders sanitary services or in a similar business  
shall be sentenced to prison up to one year.

(2) A person who commits the offence referred to in Paragraph 1 of this Article out of negligence  
shall be fined or sentenced to prison up to six months.

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### **Medical Malpractice Article 225**

(1) A medical doctor or a dentist who applies obviously inappropriate means or an obviously inappropriate method of treatment in rendering medical aid, or fails to apply appropriate hygienic measures, and thereby causes the serious deterioration of someone's health,

shall be sentenced to prison up to three years.

(2) The sentence from Paragraph 1 of this Article shall also be pronounced to another health care worker who in rendering medical aid or care proceeds unconscientiously and thereby causes serious deterioration of someone's health.

(3) A medical doctor or a dentist who commits the offence referred to in Paragraph 1 of this Article out of negligence,

shall be sentenced to prison up to one year.

(4) Sentence referred to in Paragraph 3 of this Article shall be pronounced to another health care worker who commits the offence referred to in Paragraph 2 of this Article out of negligence.

### **Failure to Render Medical Aid Article 226**

A medical doctor, dentist or another health worker who refuses to render medical aid to a person who needs such aid even though he was or could or must have been aware that it could cause serious health impairment or death of the person

shall be sentenced to prison up to three years.

### **Medical Quackery Article 227**

A person without adequate qualifications who unlawfully practices medical or other health care activity

shall be fined and sentenced to prison up to one year.

### **Production and Distribution of Harmful Victuals Article 228**

(1) A person who produces victuals, dishes, beverages or other products harmful to people's health in order to sell them, or sells them or offers them for sale or distributes them in another way

shall be sentenced to prison from three months to three years.

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(2) A person who commits the offence referred to in Paragraph 1 of this Article out of negligence

shall be fined or sentenced to prison up to six months.

(3) Harmful victuals and objects shall be seized.

### **Unconscientious Inspection of Meat**

#### **Article 229**

(1) A veterinarian or other authorised veterinary officer who fails to exercise due diligence during the inspection of meat for consumption or livestock for slaughter, or contrary to the regulations fails to carry out the inspection and thereby enables the distribution of meat or food items harmful to health, shall be sentenced to prison up to one year.

(2) A veterinarian or other authorised veterinary officer who commits the offence referred to in Paragraph 1 of this Article out of negligence, shall be fined or sentenced to prison up to one year.

### **Polluting Potable Water and Victuals**

#### **Article 230**

(1) A person who uses a harmful substance to pollute victuals or the water people use for drinking thereby jeopardizing lives and health of people shall be sentenced to prison up to three years.

(2) A person who commits the offence referred to in Paragraph 1 of this Article out of negligence shall be fined or sentenced to prison up to three months.

### **Serving Alcoholic Drinks to Juveniles Younger than Sixteen**

#### **Article 231**

A person in a bar or other such establishment for selling alcoholic drinks who serves spirits or other alcoholic drinks to a juvenile under sixteen in quantities which may cause intoxication of the juvenile, shall be fined or sentenced to prison up to six months.

### **Unauthorised Production and Distribution of Narcotics**

#### **Article 232**

(1) An unauthorised person who produces, processes, sells or offers for sale, or purchases for resale, who keeps, transports or intermediates in sale or purchase, or in some other way distributes substances or products which are declared narcotics by regulations,

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shall be sentenced to prison from one to ten years.

(2) A person who organizes a group of persons in order to commit the offence referred to in Paragraph 1 of this Article or a person who becomes a member of such an organized group

shall be sentenced to prison for not less than three years.

(3) An unauthorised person who manufactures, purchases, intermediates or provides for use the equipment, material or substances for which he knows are intended for the production of narcotics,

shall be sentenced to prison from six months to five years.

(4) The narcotics and the equipment for their production shall be confiscated.

#### **Possessing and Enabling the Consumption of Narcotics Article 233**

(1) A person who induces another to consume narcotics, or gives another a narcotic for his or some other person's consummation, or renders available premises for the purpose of consuming narcotics or in other way enables another to consume narcotics, shall be sentenced to prison from three months to five years.

(2) If the offence referred to in Paragraph 1 of this Article has been committed against a child, juvenile or against a number of persons, or if the offence resulted in particularly grave consequences, the perpetrator shall be sentenced to prison from one to ten years.

(3) The narcotics shall be confiscated.

#### **Grave Offences against Public Health Article 234**

(1) If the offences referred to in Article 221 (*Transmitting of Contagious Disease*) Paragraphs 1 and 2, Article 224 (*Hiring of Persons Infected with Contagious Diseases*) Paragraph 1, Article 225 (Medical Malpractice) Paragraphs 1 and 2, Articles 227 (*Medical Quackery*), 228 (*Production and Distribution of Harmful Victuals*) Paragraph 1, Article 229 (*Unconscientious Inspection of Meat*) Paragraph 1, and Article 230 (*Polluting Potable Water and Victuals*) Paragraph 1, of this Code resulted in someone's grievous bodily harm or serious deterioration of health or considerable worsening of an already existing illness, the perpetrator shall be sentenced to prison from one to eight years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in the death of one or several persons, the perpetrator shall be sentenced to prison from one to twelve years.

(3) If the offence referred to in Article 221 Paragraph 3, Article 224 Paragraph 2, Article 225 Paragraph 3, Article 228 Paragraph 2, Article 229 Paragraph 2 and Article 230

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Paragraph 2 of this Code resulted in someone's grave bodily injury or serious deterioration of health or considerable worsening of an already existing illness, the perpetrator

shall be sentenced to prison from six months to five years.

(4) If the offence referred to in Paragraph 3 of this Article, resulted in the death of one or several persons, the perpetrator

shall be sentenced to prison from one to eight years.

## **XXII CHAPTER TWENTY-TWO CRIMINAL OFFENCES AGAINST ECONOMY, BUSINESS OPERATION AND SAFETY OF PAYMENTS**

### **Violation of Equality in Performing Economic Activity**

#### **Article 235**

(1) A person who, by abuse of office, influence or authority, restricts the free flow of people, goods and capital in the territory of the Brcko District, denies or restricts the right of a business enterprise or another legal or physical person to engage in sale of goods and services within the Brcko District, or a person who puts a trading enterprise or another legal or physical person in an unequal position in relation to other persons regarding the working conditions or requirements for engaging in sale of goods and services, or restricts a free exchange of goods and services in the Brcko District

shall be sentenced to prison from six months to five years.

(2) An office holder or a responsible person in the Brcko District who, by abuse of office or authority, restricts the free flow of people, goods and capital between the Brcko District and the Entities, denies or restricts the right of a business enterprise or another legal or physical person to engage in sale or goods and services in the territory of the Brcko District or the Entities, or puts a business enterprise or another legal or physical person in an unequal position in relation to other persons regarding the working conditions and requirements for engaging in sale of goods and services, or restricts a free exchange of goods and services between the Brcko District and the Entities

shall be sentenced to prison from one to eight years.

### **Unconscionable Business Operations**

#### **Article 236**

(1) A responsible person within a legal person who, by conscious violation of the law or other regulation in the Brcko District, unconscientiously manages business, and thereby causes a significant property damage to that legal person, shall be fined or sentenced to prison up to three years.

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(2) If the offence referred to in Paragraph 1 of this Article resulted in a compulsory liquidation or bankruptcy of the legal person, the perpetrator shall be sentenced to prison from six months to five years.

### **Causing Bankruptcy Article 237**

(1) A person who, knowing about being excessively indebted or unable to pay, and stopping the collection of his claims in order to decrease the future bankruptcy estate, excessively expends, alienates property at a bargain, takes on a disproportionate liability, recklessly takes or grants loans, concludes a business deal with a person unable to pay, fails to collect his claims on time or in another way which is clearly in contradiction with adequate management and by that decreases his property shall be sentenced to prison from six months to five years.

(2) The sentence referred to in Paragraph 1 of this Article shall be imposed on a responsible person within the legal person who commits the offence referred to in Paragraph 1 of this Article.

(3) A person who commits the offence referred to in Paragraphs 1 and 2 of this Article out of negligence shall be fined or sentenced to prison up to three years.

### **Fake Bankruptcy Article 238**

(1) A person who, in order to avoid paying of obligations, causes the bankruptcy by false or real decreasing of his own property, namely:

- a) by concealing, leaving to another person for free, destroying or selling all or part of the property fictitiously or under the market value,
- b) by concluding fictitious contracts on debts or by acknowledging non-existing claims;
- c) by concealing, destroying, altering, or keeping business records, documents or files, which are prescribed by law, in such a manner that they do not display the real state of assets, or by fabricating documents or in some other way presents the state of assets so that it can offer grounds for initiating bankruptcy procedure,

shall be sentenced to prison from one to eight years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in grave consequences for the creditor, the perpetrator shall be sentenced to prison from one to ten years.

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### **Abuse of Bankruptcy Procedure Article 239**

(1) A person who, during the bankruptcy procedure, reports a false claim or a claim at the false payment line in order to acquire a right he is not entitled to, shall be fined or sentenced to prison up to one year.

(2) The sentence referred to in Paragraph 1 of this Article shall be pronounced to a creditor, member of the board of creditors or the trustee in bankruptcy who accepts for himself or for someone else a material gain or a promise of material gain in order to bring or not to bring forth a certain decision, or to damage in another way at least one of the creditors in the bankruptcy procedure.

(3) The sentence referred to in Paragraph 1 of this Article shall be pronounced to a person who promises the material gain to a creditor, member of the board of creditors or to the trustee in bankruptcy for the purpose of committing the offence referred to in Paragraph 2 of this Article.

### **Damaging of Creditors Article 240**

(1) A person aware of his insolvency, who pays a debt or in other way privileges one creditor and in that way damages at least one of the creditors, shall be fined or sentenced to prison up to one years.

(2) A responsible person within a legal person who knows that the legal person became insolvent and nevertheless, with the intention to deceive or damage creditors, accepts a false claim, concludes a false contract or by some other fraudulent act damages the creditor of the legal person, shall be sentenced to prison from six months to five years.

(3) If the offence referred to in Paragraphs 1 and 2 of this Article resulted in damage exceeding KM 500,000 or if it resulted in starting the financial rehabilitation or bankruptcy procedure to compensate the injured party, the perpetrator shall be sentenced to prison from one to ten years.

### **Abuse of Authorisations in Business Operations Article 241**

(1) A responsible person in a legal person who, with the intention of acquiring the unlawful material gain for that legal person:

- a) creates or keeps illicit funds in the country or abroad;
- b) falsely presents the situation and flow of assets and business results by making documents of false contents, false balance sheets, value estimations, or inventories

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- or by presenting other false accounts, or by concealing facts, thus deceiving the management of the legal person when enacting managerial decisions;
- c) denies to pay tax and other fiscal obligations determined by law;
- d) uses the entrusted resources contrary to their purpose;
- e) in another other way severely violates authorisations for disposing of, using or managing the property of the legal person,

shall be sentenced to prison from six months to five years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in acquisition of a significant material gain exceeding KM 200,000 the perpetrator shall be sentenced to prison from one to eight years.

#### **Misuse in Privatisation Process Article 242**

(1) A person who, in the privatisation process, inflicts damage to other person or severely violates rights of the other person, decreases purchase price or enables purchase considerably under the price of the legal person in the privatisation, through providing incorrect data or concealing the data about property, revenues, burdens, expenditures and other rights or facts that could affect the real price, all for his own or other person's gain,

shall be sentenced to prison up to five years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in material gain or damage exceeding KM 300,000 the perpetrator shall be sentenced to prison from one to ten years.

(3) If the offence referred to in Paragraph 1 of this Article resulted in material gain or damage exceeding KM 800,000 the perpetrator shall be sentenced to prison from one to twelve years.

(3) An official or an authorised person who, being aware of the actions referred to in Paragraph 1 of this Article, uses his office or authority, by overstepping his official authorities or failing to perform official duties, performs or fails to perform official action in the privatisation procedure

shall be sentenced to prison from one to ten years.

#### **Making False Balance Sheets Article 243**

A person, intending to acquire certain gain for himself or someone else or to cause a damage to someone else, who makes a false balance sheet in a legal person which determines the gain or loss of that legal person, or which determines a share in the gain or loss of each member of the legal person,

shall be sentenced to prison from six months to five years.

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### **Abuse of Estimation Article 244**

- (1) A person authorised to make an estimation who abuses his authorisation during the estimation of the property of a legal entity, and thereby acquires a gain for himself or for someone else, or inflicts a damage to someone else, shall be sentenced to prison from one to five years.
- (2) If the offence referred to in Paragraph 1 of this Article resulted in acquiring the material gain or inflicting damage that exceeds KM 10,000 the perpetrator shall be sentenced to prison from one to eight years.
- (3) If the offence referred to in Paragraph 1 of this Article resulted in acquiring the material gain or inflicting damage that exceeds KM 50,000 the perpetrator shall be sentenced to prison from one to ten years.

### **Fraud in Economic Transactions Article 245**

- (1) A person acting as an authorised agent or a representative of a legal entity who, intending to acquire the unlawful material gain for that or other legal person, uses the irrecoverable acceptance orders, cheques for which he knows that are uncovered, or in some other way deceives another person or keeps him deceived and in that way leads him into making damage to his own or another person's property by doing or failing to do something, shall be sentenced to prison from six months to five years.
- (2) If the offence referred to in Paragraph 1 of this Article resulted in acquiring the material gain or in causing the damage exceeding the amount of KM 10,000 the perpetrator shall be sentenced to prison from one to eight years.
- (3) If the offence referred to in Paragraph 1 of this Article resulted in acquiring the material gain or in causing the damage exceeding the amount of KM 50,000 the perpetrator shall be sentenced to prison from one to ten years.

### **Conclusion of Detrimental Contract Article 246**

- (1) A person who, acting as an authorised agent or a representative of a legal person engaged in an economic activity concludes a contract being aware of its harmful character to the legal person, or concludes a contract contrary to authorisations, and thereby causes a damage to the legal entity,

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shall be sentenced to prison from three months to three years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in the perpetrator's unlawful gain or promise of gain, or the damage exceeding the amount of KM 200,000 the perpetrator

shall be sentenced to prison from one to ten years.

#### **Creating Monopoly in Market Article 247**

A person within a legal person who concludes a contract that limits the other legal or natural person in free trade in commodities or services in certain area or with certain legal or natural persons, or concludes a contract that, in other way, establishes monopoly of certain legal or natural persons in the market,

shall be sentenced to prison from six months to five years.

#### **Revealing and Unauthorized Obtaining of Business Secrets Article 248**

(1) A person who, without authorisation, reports, gives or in some other way makes a business secret available or obtains such information with the intention to give it to another unauthorised person,

shall be sentenced to prison from three months to three years.

(2) If the offence referred to in Paragraph 1 of this Article was committed with the intention to take the business secret abroad, or if the offence referred to in Paragraph 1 of this Article resulted in property gain or considerable damage, the perpetrator

shall be sentenced to prison from six months to five years.

#### **Revealing and Using of Stock-Exchange Secret Data Article 249**

(1) A person who reports to an unauthorised person business information of the stock-exchange which are not available to all participants in the stock-exchange, or a person who obtains such information and by using them at the stock-exchange acquires an unlawful property gain,

shall be sentenced to prison from three months to five years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in the material gain exceeding the amount of KM 10,000 the perpetrator

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shall be sentenced to prison from one to eight years.

(3) If the offence referred to in Paragraph 1 of this Article resulted in the material gain exceeding KM 50,000 the perpetrator shall be sentenced to prison from two to ten years.

### **Counterfeiting of Securities Article 250**

(1) Whoever makes false securities with an aim of bringing them into circulation as genuine, or whoever alters such genuine securities with an aim of bringing them into circulation, or whoever obtains counterfeit securities in order to bring them into circulation as genuine,

shall be sentenced to prison from one to ten years.

(2) A person who puts into circulation the counterfeit securities he had received as genuine knowing or after having learned that they are counterfeited or altered shall be fined or sentenced to prison up to one year.

(3) Counterfeit securities shall be confiscated.

### **Counterfeiting of Credit Cards and Other Non-Cash Cards Article 251**

(1) A person who counterfeits a credit card or other non-cash card, or alters a real card with the intention to use it as a real one, or whoever uses such counterfeited card as real, shall be sentenced to prison up to three years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in the material gain, the perpetrator

shall be sentenced to prison from one to five years.

(3) If the offence referred to in Paragraph 1 of this Article resulted in the material gain exceeding the amount of KM 10,000 the perpetrator shall be sentenced to prison from one to eight years.

(4) If the offence referred to in Paragraph 1 of this Article resulted in the material gain exceeding the amount of KM 50,000 the perpetrator shall be sentenced to prison from two to ten years.

(5) Counterfeit credit cards and non-cash cards shall be confiscated.

### **Counterfeiting Instruments of Value Article 252**

(1) Whoever makes false tax or mail stamps or other instruments of value issued pursuant to the regulations, or whoever alters some of these genuine instruments of value

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with an aim to use them as genuine or to let another person use them, or whoever uses such counterfeit instruments of value as genuine or procures them with such aim, shall be punished by a fine or sentenced to prison up to three years.

(2) If the instruments of value referred to in Paragraph 1 of this Article are of larger value, the perpetrator shall be sentenced to prison from six months to five years.

(3) Whoever removes the cancelling stamp from an instrument of value referred to in Paragraph 1 of this Article, or whoever in some other way, and for the purpose of repeated use, attempts to make these instruments of value appear as if they have never been used before, or whoever makes use of these used instruments of value or sells them as valid,

shall be fined or sentenced to prison up to three years.

(4) Counterfeit instruments of value shall be confiscated.

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

#### **Article 253**

(1) Whoever, with an aim to use as genuine, makes false trademarks used for the identification of domestic or foreign commodities, such as seals, stamps or hallmarks for branding gold, silver, livestock, wood or some other commodities, or with the same aim alters such genuine trademarks, or whoever uses false trademarks as genuine, shall be sentenced to prison from six months to five years.

(2) The punishment referred to in Paragraph 1 of this Article shall be imposed on a person who makes false measures or weights.

(3) False trademarks, measures and weights shall be confiscated.

### **Making, Procuring, Possessing, Selling and Lending to Others**

#### **Counterfeiting Devices**

#### **Article 254**

(1) A person who makes, procures, possesses, sells or gives the other person for use the devices for counterfeiting money, credit cards and other non-cash cards or securities, shall be sentenced to prison from six months to five years.

(2) A person who makes, procures, possesses, sells or lends the devices for counterfeiting lawfully issued instruments of value for use to other persons, or false trade marks and false measures and weights

shall be fined or sentenced to prison up to three years.

(3) The devices referred to in Paragraphs 1 and 2 of this Article shall be confiscated.



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### **Counterfeiting or Destroying of Business or Trade Books or Documents** **Article 255**

(1) A person who enters false data or fails to enter an important data in business or trade books, documents or acts which he is obliged to keep in accordance with law or other regulation; or who signs or seals a business or trade book, document or act with false content; or a person who, by using his signature or seal, enables the creation of a business or trade book, document or act with false content, shall be fined or sentenced to prison up to three years.

(2) The sentence referred to in Paragraph 1 of this Article shall also be pronounced to a person who uses a false business or trade book, act or document as genuine, or to a person who destroys, damages, hides or in some other way makes useless a business or trade book, act or document.

### **Violation of Patent Right** **Article 256**

A person who without authorization, in business operation, uses other person's patent registered or protected by regulations shall be sentenced to prison from three months to five years.

### **Unauthorized Use of Others Model and Pattern** **Article 257**

A person who uses other person's registered exterior form, picture or drawing or the one's protected by model or pattern when selling his product shall be sentenced to prison up to three years.

A person who unlawfully publishes other person's registered model or pattern shall be fined and sentenced to prison up to five years.

### **Unauthorized Use of Brand Name** **Article 258**

A person who uses someone else's brand name, seal, trademark or special identification of goods, or inserts some features of someone else's brand in his brand-name, seal, trademark, or special identification of goods, with an aim to deceive a purchaser or user of services, shall be sentenced with up to one year in prison.

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### **Misleading the Purchasers Article 259**

(1) A person who, intending to mislead purchasers, puts into circulation products with a label that contains information that does not comply with the contents, brand, origin or quality of the product; or who puts into circulation the products whose weight or quality does not comply with what is normally expected of such products; or who puts into circulation the products without the indication of the content, brand, origin or quality of the product whenever such indication is prescribed, shall be sentenced to prison up to three years and fined.

(2) A person who, intending to deceive purchasers, falsely announces that the price of goods has been reduced, or that there is a sale of goods, or in any other way uses obviously false advertisement regarding the price of goods, shall be fined or sentenced to prison up to one year.

### **Illicit Trade in Gold Coins and Gold Article 260**

(1) A person who engages in illicit trade in gold coins and gold the value of which exceeds KM 10,000 shall be sentenced up to three years in prison.

(2) The perpetrator referred to in Paragraph 1 of this Article who organized network of resellers or go-betweens, shall be sentenced to prison from six months to five years.

(3) Gold coins or gold that was subject of illicit trade shall be confiscated.

### **Illicit Trade Article 261**

(1) A person who, without authorization to trade, purchases goods or other commodities for general consumption in the value that exceeds KM 10,000 in order to sell them, or a person who engages in large-scale trade or mediation in trade or representation in trade in goods and services, shall be sentenced to prison from three months to three years.

(2) If the perpetrator referred to in Paragraph 1 of this Article organized the network of resellers or go-betweens, or the material gain exceeding KM 30,000 was acquired through the criminal offence referred to in Paragraph 1 of this Article, or the trade in goods or items in question is forbidden or limited by regulations, he shall be sentenced to prison from six months to five years.

(3) Illegally traded goods and items shall be confiscated.

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### **Misleading in Getting Loan or other Benefits** **Article 262**

(1) A person who, with the aim to get a loan, investment funds, subventions or some other privilege, for himself or another person, furnishes the loan provider or a person competent for approving privileges with false or incomplete information on his financial standing or other data relevant for extending a loan or getting other privileges, shall be sentenced to prison from six months to three years.

(2) If the value of the loan or other privileges referred to in Paragraph 1 of this Article acquired through the offence referred to in Paragraph 1 of this Article, exceeds KM 10,000 the perpetrator shall be sentenced to prison from one to five years.

(3) If the value of the loan or other privileges referred to in Paragraph 1 of this Article acquired through the offence referred to in Paragraph 1 of this Article, exceeds KM 50,000 the perpetrator shall be sentenced to prison from two to ten years.

(4) A person who uses the loan, investment funds, subvention or some other privilege for the purpose different from the one for which the funds were approved, shall be fined or sentenced with up to two years in prison.

### **Unauthorized Engaging in Banking Business** **Article 263**

(1) A person who engages in banking business without authorization or contrary to the requirements of the approval for banking business, shall be sentenced to prison from three months to five years.

(2) If the material gain exceeding KM 10,000 was acquired through the criminal offence referred to in Paragraph 1 of this Article, the perpetrator shall be sentenced to prison from one to eight years.

(3) If the material gain exceeding KM 50,000 was acquired through the criminal offence referred to in Paragraph 1 of this Article, the perpetrator shall be sentenced to prison from two to ten years.

(4) If the material gain exceeding KM 200,000 was acquired through the criminal offence referred to in Paragraph 1 of this Article, the perpetrator shall be sentenced to at least five years in prison.

### **Illicit Manufacturing Article 264**

- (1) Whoever manufactures or processes items or goods whose production or processing is forbidden, if by such an act some other criminal offence for which a more severe punishment is prescribed has not been perpetrated, shall be fined or sentenced to up to three years in prison.
- (2) Goods referred to in Paragraph 1 of this Article and means for its manufacturing or processing shall be forfeited.

### **Money Laundering Article 265**

- ~~(1) A person who accepts, exchanges, keeps, disposes of, uses in commercial or other business, or in other way conceals the money or property that person knows to have been obtained through a criminal offence, or conceals or attempts to conceal it shall be sentenced to prison from six months to five years.~~
- ~~(2) If the money or property gain referred to in Paragraph 1 of this Article is of large value, the perpetrator shall be sentenced to prison from one to ten years.~~
- ~~(3) If in the commission of the criminal offences from Paragraphs 1 and 2 of this Article, the perpetrator was negligent to whether the money or property gain have been obtained through a criminal offence, the perpetrator shall be fined or sentenced to prison of up to three years.~~
- ~~(4) The money or property gain from Paragraphs 1 to 3 of this Article shall be forfeited.~~

- (1) Whoever, directly or indirectly, receives, exchanges, withholds, disposes with, uses in commercial or other form of business, makes conversion or transfers or conceals in any other way the nature, origin, location, disposal, flow, ownership or other right, money or other property, shall be punished by imprisonment for a term of six months to five years.**
- (2) If the perpetrator of the act referred to in Paragraph (1) of this Article is also a perpetrator of or an accomplice to the criminal offense whose perpetration resulted in the money or property gain referred to in the previous Paragraph, the perpetrator shall be punished by imprisonment for a term of one to eight years.**
- (3) If the money or property gain referred to in Paragraphs (1) of this Article is of a great value, the perpetrator shall be punished by imprisonment for a term of one to ten years.**
- (4) If offences referred to in Paragraphs (1), (2) and (3) of this Article are perpetrated by several persons who joined together for the purpose of committing**

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**such crimes, the perpetrator shall be punished by imprisonment for a term of two to 12 years.**

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

**(6) Money, property gain, income, profit or other benefit from the property gain procured through commission of a crime referred to in Paragraphs (1) to (4) of this Article shall be confiscated.**

Comment [HS4]: OG 26/16

#### **Misuse of Cheque and Card Article 266**

(1) A person who, by misusing a cheque, credit or some other card for non-cash payment he is entitled to use, binds a bank or other legal person to pay him the amount knowing that it is not covered, and which is explicitly forbidden by the contract on use of cheques or cards,

shall be fined and sentenced up to three years in prison.

(2) If the material gain exceeding KM 50,000 was acquired through the offence referred to in Paragraphs 1 and 2 of this Article, the perpetrator shall be sentenced to prison from two to ten years.

### **XXIII CHAPTER TWENTY THREE CRIMINAL OFFENCES INVOLVING TAXES**

#### **Tax Evasion Article 267**

(1) A person who himself or on behalf of other person, evades payment of amounts required under the tax legislation of the Brcko District, or social contributions prescribed by the Brcko District legislation, by not submitting required information or by submitting false information on acquired taxable income or on other facts which may affect the determination of the amount of such taxes, and the obligation that is evaded exceeds the amount of KM 10,000

shall be fined or sentenced to up to three years in prison.

(2) A person who perpetrates the offence referred to in Paragraph 1 of this Article and the evaded obligation exceeds the amount of KM 50,000 shall be sentenced to prison from one to ten years.

(3) A person committing the offence referred to in Paragraph 1 of this Article where the evaded obligation exceeds the amount of KM 200,000

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shall be sentenced to at least three years in prison.

**Failure to Pay Taxes**  
**Article 267a**

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

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

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

(4) If the perpetrator pays the liabilities referred to in Paragraphs 1, 2 and 3 of this Article, he may be relieved from punishment.

**False Tax Document**  
**Article 268**

(1) A person who issues a false document which is to be submitted under the tax legislation of the Brcko District, or a person who fails to issue a document the issuance of which is required under the tax legislation of the Brcko District, shall be fined or sentenced up to one year in prison.

(2) If the criminal offence referred to in Paragraph 1 of this Article involves a large number of documents, or the collection of large amounts of public revenues is brought into question, the perpetrator shall be fined or sentenced up to three years in prison.

**Inappropriate Allocation of Funds of Legal Persons**  
**Article 269**

If a responsible person within a legal person, who is personally responsible for tax obligations of the legal person under the Brcko District tax legislation, approved allocation of the legal person's funds for the purposes other than tax obligations thereby causing legal person's incapacity to settle its tax obligations timely, he shall be fined or sentenced to up to three years in prison.

**False Tax Report**  
**Article 270**

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Whoever submits to a tax authority a false tax report or other false information required under the Brcko District tax legislation, shall be fined or sentenced to up to three years in prison.

**Preventing a Tax Official From Performing his Official Duties**  
**Article 271**

(1) Whoever, by use of force or threat to use force, prevents or tries to prevent a tax official from performing his official duties, or in the same way forces or tries to force him not to perform his official duties,

shall be sentenced to prison from three months to three years.

(2) If, in committing the criminal offence from Paragraph 1 of this Article, the perpetrator offends or molests a tax official, or inflicts him a light bodily injury, or threatens to use weapons, he

shall be sentenced to prison from six months to three years.

(3) The perpetrator of the criminal offence referred to in Paragraphs 1 and 2 of this Article, who was provoked by illegal or rude conduct of a tax official, may be released from punishment.

**Attack on Tax Official on Duty**  
**Article 272**

(1) Whoever attacks or seriously threatens to attack a tax official or a person assisting the tax official in revealing and investigating violations of the Brcko District tax regulations, shall be sentenced to prison from three months to three years.

(2) If, in committing the criminal offence referred to in Paragraph 1 of this Article, the perpetrator inflicts a light bodily injury to a tax official or his assistant, or threatens to use weapons,

shall be sentenced to prison from six months to five years.

(3) If, in committing the criminal offence referred to in Paragraph 1 of this Article, the perpetrator inflicts serious bodily injuries to a tax official or his assistant, he shall be sentenced to prison from one to ten years.

(4) The perpetrator of the criminal offences referred to in Paragraphs 1 through 3 of this Article, who was provoked by illegal or rude conduct of a tax official or his assistant, may be released from punishment.

(5) The criminal offence referred to in Paragraphs 1 through 3 of this Article also apply to the officials in the Brcko District of Bosnia and Herzegovina engaged in revealing and investigating tax legislation violations.

**XVIV CHAPTER TWENTY – FOUR**

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## **CRIMES AGAINST LABOUR RELATIONS**

### **Violation of Equality in Employment Article 273**

Whoever denies or restricts citizens' right to free employment within the territory in the Brcko District under the same requirements valid in a place of employment, shall be sentenced to prison from three months to three years.

### **Violations of Labour Relations Rights Article 274**

Whoever, by violating regulations or general enactments or collective bargains on employment or termination of employment, or on salary or other payments, on working hours, on holiday or leave, on protection of women, youth and disabled persons, or on ban on overtime work or night shifts, denies or restricts a right of an employee, shall be fined or sentenced up to one year in prison.

### **Violation of Rights During Temporary Unemployment Article 275**

Whoever, by violating a regulation or general enactment on citizens' rights during temporary unemployment, denies another person's right stemming from the regulation or general enactment, shall be fined or sentenced to up to one year in prison.

### **Violating Social Insurance Rights Article 276**

Whoever, by violating a regulation or general enactment on social insurance, denies or restricts another person's right stemming from social insurance, shall be fined or sentenced to up to one year in prison.

### **Abuse of Social Insurance Rights Article 277**

Whoever, by faking illness or deliberately causing his illness or incapacity to work, exercises a social insurance right that he would not otherwise be entitled to under a regulation or general enactment, shall be fined or sentenced to up to one year in prison.

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**Failure to Enforce Decision on Reinstatement  
Article 278**

An official or a responsible person within a legal person, or a private entrepreneur who fails to proceed in accordance with a final decision on reinstatement, shall be sentenced to prison from three months to three years.

**Failure to Take Measures for Safety at Work  
Article 279**

(1) A responsible person within a legal person, or a private entrepreneur, who violates a law or other regulation or general act on measures for safety at work, by failing to take the prescribed measures,

shall be fined or sentenced to up to one year in prison.

(2) In pronouncing a suspended sentence, the court may order the perpetrator to take the measures for safety at work within the set deadline.

**XXV CHAPTER TWENTY – FIVE  
CRIMES AGAINST PROPERTY**

**Larceny  
Article 280**

(1) A person who seizes someone else's movable piece of property with an intention of making unlawful gain for himself or another, shall be fined or sentenced to prison of up to three years.

(2) If the stolen piece of property is of small value and the perpetrator acted in order to gain that property value, he shall be fined or sentenced to prison of up to six months.

(3) The perpetrator of the criminal offences referred to in Paragraphs 1 and 2 of this Article, who returns the stolen piece to the injured person before he finds out that he has been identified, he may be released from punishment.

**Grand Larceny  
Article 281**

(1) The prison sentence from six months to five years shall be imposed on a person who commits a larceny (Article 280 *Larceny*, Paragraph 1) by:

- 1) forcing or breaking into closed buildings, premises, cashier's office, cabinet or other closed premises or overcoming significant obstacles in some other way with intention to seize an object;

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- 2) in a particularly dangerous or insolent manner;
  - 3) abusing the commotion caused by fire, flood, earthquake or a similar disaster;
  - 4) abusing helplessness or other extremely difficult situation of a person.
  - 5) out of hatred.
- (2) The sentence referred to in Paragraph 1 of this Article shall be imposed on the perpetrator of a larceny (Article 280, Paragraph 1):
- 1) if the stolen goods are of significant value and the perpetrator acted with intention to obtain such value;
  - 2) if the stolen item has a religious significance, or the item was stolen from religious or other facility, or premises where religious rites are conducted;
  - 3) if the stolen property has special cultural, scientific, artistic, historical or technical significance, or if it is placed in a public collection, protected private collection or is exhibited for public.
- (3) A fine or the prison sentence of up to three years shall be imposed on a person who commits a larceny (Article 280, Paragraph 2) in the manner and under the circumstances referred to in Paragraph 1 or Paragraph 2, Items 2 and 3, of this Article.
- (4) The prison sentence from one to eight years shall be imposed on a person who commits a larceny (Article 280, Paragraph 1) as a member of a group, or if he has a certain weapon or dangerous tool for the purpose of committing the offence.

### **Robbery Article 282**

- (1) A person caught in a robbery who uses force against another or threatens to attack the life and body with an intention to keep the stolen property, shall be sentenced to prison from one to ten years.
- (2) If, while committing the offence referred to in Paragraph 1 of this Article, a severe bodily injury was inflicted to another with premeditation, or if the robbery is committed out of hatred, or the offence was committed by several persons, or if some weapon or a dangerous object was used, the perpetrator shall be sentenced to at least five years in prison.
- (3) If a person was killed with premeditation while committing the offence referred to in Paragraph 1 of this Article, the perpetrator shall be sentenced to prison of at least ten years or long-term imprisonment.

### **Armed Robbery Article 283**

- (1) A person who uses force against another person, or threatens to directly attack his life or body in order to seize another's movable piece of property intending thereby to obtain an unlawful property gain for himself or another,

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shall be sentenced to prison from one to ten years.

(2) If, while committing the offence referred to in Paragraph 1 of this Article, a person severe bodily injury was inflicted to another with premeditation, or if the aggravated robbery is committed out of hatred, or the offence was committed by several persons, or if certain weapon or a dangerous object was used, the perpetrator shall be sentenced to at least five years in prison.

(3) If a person was killed deliberately in committing the offence referred to in Paragraph 1 of this Article, the perpetrator shall be sentenced to prison of at least ten years or long-term imprisonment.

### **Embezzlement**

#### **Article 284**

(1) A person who, with an intention to acquire a property gain for himself or for another, unlawfully appropriates a piece of someone else's movable property that was entrusted to him,

shall be fined or sentenced to prison to up to one year.

(2) If the offence referred to in Paragraph 1 of this Article was committed by a guardian, he

shall be fined or sentenced to prison to up to three years.

(3) If the misappropriated item is a cultural asset, or has special scientific, artistic, historical or technical value, or if the misappropriated item is of large value, and the perpetrator acted to acquire such material gain, he

shall be sentenced to prison from six months to five years.

(4) If the misappropriated item is of small value, and the perpetrator acted to acquire the material gain of such value, he

shall be fined or sentenced to prison up to six months.

(5) The punishment from Paragraph 4 of this Article shall be imposed on a person who, with an intention to obtain property gain for himself or another person, unlawfully retains someone else's property he has found or obtained incidentally.

(6) The perpetrator of the criminal offences from Paragraphs 1, 4 and 5 of this Article, who returns the misappropriated item to the injured party before he finds out that he has been identified, may be released from punishment.

### **Seizure of Piece of Another's Movable Property**

#### **Article 285**

(1) A person who, with no intention to obtain a property gain, unlawfully seizes or retains a piece of someone else's movable property, shall be fined or sentenced to prison to up to one year.

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(2) If the criminal offence from Paragraph 1 of this Article involves a motor vehicle, the attempt shall be punished.

(3) The perpetrator of the criminal offence referred to in Paragraph 1 of this Article, who returns the misappropriated item, except a motor vehicle, to the owner before he learns that he has been identified, may be released from punishment.

### **Unlawful Occupying of Public Real Property Article 286**

(1) A person who unlawfully occupies real property in the form of construction land or part thereof

shall be fined or sentenced to prison to up to six months.

(2) If the criminal offence referred to in Paragraph 1 of this Article involves a real property which is declared as a property of general significance, cultural monument, natural phenomenon or other natural treasure, or is part of protected forest, or other forest for special purposes, or national park, or other special protected area with special purpose, the perpetrator

shall be sentenced to prison from three months to three years.

### **Malicious Mischief Article 287**

(1) A person who damages, destroys or renders unusable another's item shall be fined or sentenced to prison of up to six months.

(2) A person who damages, distorts, destroys or renders unusable another's item used for religious purposes, or an object of cultural significance on public display, natural asset under special protection, artistic object, object of scientific or technical importance, object which belongs to public collection, or it is exhibited in public or an object in common use, or which decorates squares, streets or parks, shall be fined or sentenced to prison of up to one year.

(3) Whoever commits the offence from Paragraphs 1 and 2 of this Article out of hatred, shall be punished by imprisonment for a term of between six months and five years.

### **Fraud Article 288**

(1) A person who, with the intention of making an unlawful material gain for himself or another, deceives someone through false presentation or concealing of facts, or keeps him in deceit, inducing him thereby to do or fail to do something to the detriment of his or someone else's property, shall be sentenced to prison of up to three years.

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(2) If the damage exceeds KM 30,000 and the perpetrator acted with the aim to obtain material gain of this value, he

shall be sentenced to prison from six months to five years.

(3) If the small damage is in question, and the perpetrator acted with the aim to acquire material gain of this value, he

shall be fined or sentenced to prison up to six months.

(4) A person who commits the offence referred to in Paragraph 1 solely for the purpose of causing harm to someone else, with no intention to obtain unlawful material gain for himself or another person, shall be fined or sentenced to prison up to one year.

#### **Extortion Article 289**

(1) A person who intends to obtain unlawful property gain for himself or for someone else by means of compelling another person, by use of force or serious threat to use force, to do or to fail to do something and thereby inflict damage on his own or someone else's property,

shall be sentenced to prison from three months to five years.

(2) If the offence referred to in Paragraph 1 of this Article was committed by use of certain weapon or dangerous tool, or resulted in acquisition of significant material gain, or the offence was committed by several persons or a criminal organization, the perpetrator

shall be sentenced to prison from one to ten years.

#### **Blackmail Article 290**

(1) A person who, with an intent to obtain unlawful property gain for himself or another, threatens another person to disclose a matter potentially harmful to his honour or dignity or honour or dignity of a person close to him, and thereby compel that person to do or fail to do something to the detriment of his or someone else's property,

shall be sentenced to prison from three months to five years.

(2) If the offence referred to in Paragraph 1 of this Article resulted in acquisition of significant material gain, or the offence was committed by several persons or a criminal organization, the perpetrator

shall be sentenced to prison from one to ten years.

#### **Abuse of Authorization Article 291**

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(1) A person who, in representing someone else's property interests or while in charge of someone else's property, does not fulfil his legal duty or abuses the authorization set by a law or a contract, intending to procure a property gain for himself or for someone else, thereby causing damage to the person he represents or whose property he is in charge of, shall be fined or sentenced to prison up to one years.

(2) If the offence referred to in Paragraphs 1 of this Article has been committed by a guardian or by an attorney-at-law they shall be sentenced to prison from three months to three years.

(3) The perpetrator of the criminal offence from Paragraph 1 of this Article who compensates the damage to the injured party before the injured party learns that he has been identified, may be released from punishment.

#### **Usury Article 292**

(1) A person who in return for providing something, or for a service rendered to a person, accepts or contracts for himself or somebody else a disproportionate property benefit by exploiting the emergency, financial difficulties, housing problem, recklessness, or diminished reasoning capacity of another person, shall be fined or sentenced to prison up to two years.

(2) If the offence from Paragraph 1 of this Article resulted in grave consequences for the injured party, the perpetrator shall be fined or sentenced to prison from six months to five years.

(3) The punishment from Paragraph 2 of this Code shall be imposed on a person who lends money by contracting disproportionate property gain.

#### **Deceiving Creditor Article 293**

(1) A person who, with the intention to prevent other person from exercising his right on property, expropriates, destroys or confiscates his piece of property over which someone else has a pledge or right of easement, and thereby causes a damage to that person, shall be fined or sentenced to prison up to one year.

(2) The sentence from Paragraph 1 of this Article shall also be imposed on a person who reduces the chance or prevents at least one of his creditors from getting the compensation by destroying or allegedly selling or rendering unusable his entire property or part thereof, or accepting a false claim, entering into a fake agreement, or by deteriorating his financial standing or creating an illusion that it is deteriorated through some other fraudulent action.

#### **Concealment**

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#### **Article 294**

(1) A person who purchases, accepts as a pawn, or in some other way obtains, conceals or sells an item for which he knows that it is obtained through the commission of a criminal offence, or something received through sale or exchange of such item, shall be fined or sentenced to prison to up to three years.

(2) A person who commits the criminal offence referred to in Paragraph 1 of this Article not knowing that the respective item was obtained through criminal offence, although he could have known that judging the circumstances, shall be fined or sentenced to up to six months in prison.

#### **Arson**

#### **Article 295**

(1) A person who sets fire on someone else's house or other residential, or economic, or business building, or a public building, shall be sentenced to prison from one to eight years.

(2) If the criminal offence referred to in Paragraph 1 of this Article caused the damage exceeding KM 100,000 or it was committed with the aim to commit an insurance fraud, the perpetrator shall be sentenced to prison from two to twelve years.

#### **Abuse of Insurance**

#### **Article 296**

(1) A person who destroys, damages or conceals a piece of property insured against destruction, damage, loss or theft, and then reports the damage with an aim to get insurance from the insurance company, shall be fined or sentenced to prison to up to two years.

(2) The punishment from Paragraph 1 of this Article shall be imposed on a person who, with an aim to collect insurance for a bodily impairment, bodily injury or impairment of health, causes himself such an impairment, injury or health impairment and reports the damage.

(3) The perpetrator of the offence referred to in Paragraphs 1 and 2 of this Article who withdraws the insurance claim before he becomes aware that he has been discovered may be released from punishment.

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## **XXVI CHAPTER TWENTY – SIX CRIMINAL OFFENCES AGAINST ENVIRONMENT, AGRICULTURE AND NATURAL RESOURCES**

### **Pollution Article 297**

- (1) A person who, in breach of regulations, pollutes air, land, running, stagnant or underground water, water streams, or in some other way deteriorates the quality of air, land, water, water streams, or natural genetic balance in biological diversity in a larger area to the extent that might deteriorate life of people or animals, or forests and flora, shall be sentenced to prison from three months to five years.
- (2) The sentence referred to in Paragraph 1 of this Article shall be imposed on a person who pollutes air, land, running, stagnant or underground water, water streams, or in some other way deteriorates the quality of air, land, water, water streams, or natural genetic balance in biological diversity thereby putting in danger life or health of people or animals, or causing destruction or considerable destruction of forests and flora in a larger area.
- (3) If the offences referred to in Paragraphs 1 and 2 of this Article were committed out of negligence, the perpetrator shall be fined or sentenced to prison to up to one year.
- (4) If the commission of the criminal offence referred to in Paragraphs 1 and 2 of this Article resulted in someone's grievous bodily injury, or in a large-scale damage, the perpetrator shall be sentenced to prison from one to ten years.
- (5) If one or several persons died as a result of commission of the criminal offence referred to in Paragraphs 1 and 2 of this Article, the perpetrator shall be sentenced to prison from one to twelve years.
- (6) If the commission of a criminal offence referred to in Paragraph 3 of this Article resulted in someone's grievous bodily injury, or in a large-scale damage, the perpetrator shall be sentenced to prison from six months to five years.
- (7) If the commission of criminal offence referred to in Paragraph 3 of this Article caused the death of one or several persons, the perpetrator shall be sentenced to prison from one to eight years.

### **Environment Pollution by Machinery Article 298**

- (1) A person who, in breach of the regulations, activates or uses machinery, or in some other manner does not abide by production rules thereby releasing dangerous substances

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that may deteriorate quality of air, land, water or a water stream in a larger area to the extent that might jeopardize life of people or animals, or destroys forests and flora, shall be fined or sentenced to up to one year in prison.

(2) An authorized official employed with a legal entity who, breaching the regulations, fails to install purifying devices or allows the construction, activates or uses machinery that pollutes the environment, shall be fined or sentenced to up to three years in prison.

#### **Waste Pollution Article 299**

(1) A person who, contrary to regulations, throws, disposes, collects, stores, processes and transports waste, or otherwise treats it in a manner which deteriorates the quality of air, land, water and water streams in a larger area to the extent that might jeopardize conditions for life of people or animals or forests or flora, shall be fined or sentenced to up to three years in prison.

(2) The punishment referred to in Paragraphs 1 of this Article shall be imposed on a person who throws, disposes, stores, processes and transports waste, or otherwise treats in a manner which deteriorates the quality of air, land, water and water streams thereby jeopardizing life or health of people or animals, or causing destruction or large-scale damage of forests or flora.

(3) If the criminal offence referred to in Paragraphs 1 and 2 of this Article was committed out of negligence, the perpetrator shall be fined or sentenced to up to one year in prison.

#### **Noise Pollution Article 300**

(1) A person who, contrary to regulations, makes noise which will likely cause serious health impairment to several persons, shall be fined or sentenced to up to three years in prison.

(2) If the criminal offence referred to in Paragraph 1 of this Article was committed out of negligence, the perpetrator shall be fined or sentenced to up to one year in prison.

#### **Manufacturing Harmful Products for Medical Treatment of Livestock Article 301**

(1) A person who manufactures for sale purposes, or puts into circulation products, intended to treat or prevent spreading of diseases of livestock, which are dangerous for their life and health,

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shall be fined or sentenced to prison to up to six months.

(2) Should the animals die in large numbers or a contagious disease is spread as a result of the offence referred to in Paragraph 1 of this Article the perpetrator, shall be sentenced to prison from three months to three years.

(3) If the criminal offence referred to in Paragraphs 1 and 2 of this Article has been committed out of negligence, the perpetrator shall be fined or sentenced to prison to up to three months.

#### **Negligent Veterinary Aid Article 302**

A veterinary or an authorized veterinary assistant who, in rendering veterinary aid, prescribes or administers a manifestly inadequate medication or a manifestly inadequate method of treatment, or who generally proceeds with careless treatment and thereby causes the death of livestock in large numbers, shall be sentenced to prison to up to three years.

If the offence referred to in Paragraph 1 of this Article has been committed out of negligence, the perpetrator shall be fined or sentenced to prison to up to six months.

#### **Unauthorized Rendering of Veterinary Services Article 303**

A person who does not possess a proper professional training or performs jobs related to animal health protection or performs veterinary treatments without authorisations, shall be fined or sentenced to prison to up to one year.

#### **Failure to Comply with Regulations to Suppress Animal and Plant Diseases Article 304**

(1) A person who fails to comply with an order or decision, passed in accordance with regulations, whereby a responsible authority orders measures to suppress or prevent a disease in the course of an epidemic of certain livestock disease that might jeopardize the livestock,

shall be sentenced to prison to up to one year.

(2) The sentence referred to in Paragraph 1 of this Article shall also be imposed on a person who, during the direct threat of disease or pests that might jeopardize flora, fails to comply with an order or decision of the competent authority that was passed in accordance with regulations and which imposes measures for suppression or prevention of diseases or pests.

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(3) If substantial damage resulted from commission of the offences referred to in Paragraphs 1 and 2 of this Article, the perpetrator shall be sentenced to prison to up to three years.

(4) If the offences referred to in Paragraphs 1 through 3 of this Article has been committed out of negligence, the perpetrator shall be fined or sentenced to prison to up to one year.

#### **Concealing Existence of Contagious Disease among Animals Article 305**

A person who conceals the existence of a contagious disease among animals or a suspicion that such disease exists, or fails to report it to the public veterinary service, or to a body in charge of veterinary service and thereby causes spreading of the contagious disease or death of animals, shall be fined or sentenced to prison to up to one year.

#### **Contaminating Livestock Fodder or Water Article 306**

(1) A person who uses a harmful substance to contaminate fodder or water in rivers, streams, springs, wells, cisterns, or other sort of water which is used for watering animals, poultry or game and thereby endangers life and health of animals, shall be fined or sentenced to prison up to one year.

(2) If the death of animals on a large scale has occurred as a result of the offence referred to in Paragraph 1 of this Article, the perpetrator shall be sentenced to prison from three months to three years.

#### **Destruction of Plant Nurseries Article 307**

A person who causes destruction of plants, fruit trees and other nursery plants by use of a harmful substance and thereby causes a large-scale damage, shall be sentenced to prison to up to three years.

#### **Negligent Sale of Pesticides Article 308**

A person who distributes pesticides or other poisons without proper authorization or issues pesticide or poison other than the prescribed one, if the substitution is not permitted, or otherwise acts negligently in the sale of pesticides or other poison and thereby jeopardizes lives or health of people or animals or environment,

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shall be fined or sentenced to prison to up to two years.

### **Destruction of Forests Article 309**

(1) A person who contrary to regulations or orders of the competent authorities cuts or clears a forest, or strips the tree bark, or in some other manner devastates a forest, thereby not committing another criminal offence carrying more severe punishment, shall be sentenced to prison to up to one year.

(2) A person who commits the offence referred to in Paragraph 1 of this Article in a protected forest, national park or in other forest with a special purpose, shall be sentenced to prison to up to three years.

### **Forest Theft Article 310**

(1) A person who fells one or several trees in a forest and thereby commits a theft, and the quantity of the timber exceeds  $2\text{m}^3$ , shall be sentenced to prison to up to three years.

(2) If the offence referred to in Paragraph 1 of this Article has been committed with the intention to sell the timber, or if the quantity of the timber exceeds  $5\text{m}^3$ , or if the offence was committed in the protected forest, national park or in other forest with a special purpose, the perpetrator shall be sentenced to prison from one to five years.

### **Setting Forest Fire Article 311**

(1) A person who sets forest fire causing large-scale damage, or at the same time sets several forest fires, shall be sentenced to prison from one to eight years.

(2) A person who sets fire to a protected forest, national park, orchard or other forests for special purposes, or corn field, shall be sentenced to prison from two to twelve years.

(3) A person who commits the criminal offence referred to in Paragraph 1 of this Article out of negligence, shall be fined or sentenced to up to two years in prison.

(4) A person who commits the criminal offence referred to in Paragraph 2 of this Article out of negligence, shall be fined or sentenced to up to three years in prison.

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### **Torturing and Killing Animals Article 312**

- (1) A person who treats animals in a cruel manner, or exposes them to unnecessary or long-term suffering, or contrary to regulations kills them, destroys their habitat to a great extent or on a wider area, shall be fined or sentenced to prison to up to six months.
- (2) If the offence referred to in Paragraph 1 of this Article was committed for the sake of a bet or other acquisition of property gain, or if it resulted in death of a large number of animals or animals which are specifically protected species, the perpetrator shall be fined or sentenced to up to one year in prison.

### **Illegal Hunting Article 313**

- (1) A person who unlawfully kills, wounds, or catches the game in large quantity or significant value during the closed season, or who kills, wounds, or catches the game the hunting of which is prohibited, or who unlawfully exports a top rate game trophy in large quantity or significant value, or who hunts protected animal species, shall be fined or sentenced to prison to up to one year.
- (2) A person who commits the offence referred to in Paragraph 1 of this Article by use of devices or in a manner prohibited by law, or mass destruction of game, shall be sentenced to prison from three months to three years.
- (3) The game caught and the hunting equipment shall be confiscated.

### **Illegal Fishing Article 314**

- (1) A person who fishes or catches other fresh water or sea animals or organisms when and where it is forbidden, or does this by use of explosives, electricity, poison or sedative substances, or who fishes in other manner or by using means which are harmful for reproduction of fish, or forbidden by regulations, shall be fined or sentenced to prison to up to one year.
- (2) If the criminal offence referred to in Paragraph 1 of this Article caused large-scale killing of fish or other fresh water or sea animals or organisms, the perpetrator shall be fined or sentenced to up to two years in prison.
- (3) The fish caught and the fishing equipment shall be confiscated.

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**Damaging, Destroying and Illicit Export of Cultural Monuments and Protected  
Natural Assets  
Article 315**

(1) A person who inflicts damage or destroys a cultural monument or a protected natural asset,

shall be fined or sentenced to prison to up to three years.

(2) If the offence referred to in Paragraph 1 of this Article has been committed against a cultural monument or protected natural treasure of significant value, or large-scale damage has occurred, the perpetrator

shall be sentenced to prison from six months to five years.

(3) A person who unlawfully exports or smuggles a cultural monument or natural asset out of a country

shall be sentenced to prison to up to three years.

(4) The sentence from Paragraph 3 of this Article shall be imposed on a perpetrator who fails to return the cultural monument or protected asset within the deadline specified in the letter of authority allowing export.

**Prohibited Researches and Expropriation of Cultural Monuments  
Article 316**

(1) A person who without a permission of a competent authority conducts conservation, restoration or researches, or contrary to ban, or without a permission of a competent authority conducts archaeological researches or excavation and thereby causes destruction or large-scale damage to the cultural monument, or deprives it of the characteristics of a monument,

shall be fined or sentenced to prison to up to one year.

(2) If the offence referred to in Paragraph 1 of this Article has been committed against a cultural monument of significant value or importance, or considerable damage has occurred, the perpetrator

shall be sentenced to prison from six months to five years.

**XXVII CHAPTER TWENTY – SEVEN  
OFFENCES AGAINST GENERAL SAFETY OF PEOPLE AND PROPERTY**

**Causing the State of General Danger  
Article 317**

OG BDBiH 47/11- official consolidated version, (52/11)

Includes texts published in the OG BDBiH 10/03, 45/04, 6/05, 21/10, and 9/13

(1) A person who puts human lives or property in large-scale danger by fire, flood, explosion, poison or poisonous gas, ionising radiation, mechanical force, electricity or other form of energy, or by shooting from firearms, shall be sentenced to prison sentence from three months to three years.

(2) The sentence from Paragraph 1 of this Article shall be imposed on an official or a responsible person that fails to install prescribed devices for protection against fire, explosion, flood, poisonous gas or ionising radiation, or fails to maintain the devices in a proper condition, or fails to put them into operation when necessary, or generally fails to comply with rules or technical regulations concerning the protective measures and thereby puts in great jeopardy human lives or property.

(3) A person who perpetrates the acts referred to in Paragraphs 1 and 2 of this Article in places where a large number of people gather, shall be sentenced with six months to five years in prison.

(4) A person who commits the offenses referred to in Paragraphs 1 and 2 of this Article out of negligence, shall be fined or sentenced to prison to up to one year.

#### **Destroying or Damaging Important Commercial or Public Facilities Article 318**

(1) A person who demolishes, sets fire or otherwise destroys or damages an important industrial, agricultural or other commercial facility, device or facility for water supply, heat, gas, electricity or other source of energy, communication system facilities or other public facilities and thereby causes their malfunction or impairs their operation, shall be sentenced to prison from one to ten years.

(2) A person who unlawfully removes or puts out of function the devices or facilities referred to in Paragraph 1 of this Article and thereby causes disorder in the normal life of a community, shall be sentenced with six months to five years in prison.

(3) A person who commits the act referred to in Paragraph 1 of this Article out of negligence, shall be sentenced to prison to up to five years.

(4) A person who commits the act from Paragraph 2 of this Article out of negligence, shall be fined or sentenced with up to one year in prison.

#### **Damaging of Safety Equipment at Work Article 319**

(1) A person who destroys, damages or removes a safety device in mines, factories, workshops or on other work sites and thereby puts human lives and property in serious danger,

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shall be sentenced to one to eight years in prison.

(2) A responsible person in a mine, factory, workshop or on other work site who fails to install safety devices, or fails to maintain them, or fails to put them into operation when necessary, or generally fails to comply with regulations or technical rules on safety measures and thereby seriously jeopardizes human lives and property, shall be sentenced from three months to five years in prison.

(3) If the offence referred to in Paragraphs 1 and 2 of this Article has been committed out of negligence, the perpetrator shall be sentenced to prison to up to three years.

(4) In pronouncing the suspended sentence for the act referred to in Paragraphs 2 and 3 of this Article, the court may set out the condition to the perpetrator to install the safety devices within the specified period of time.

#### **Unlawful and Improper Construction Article 320**

(1) A responsible person who, in the course of designing, managing or carrying out of construction works, proceeds contrary to regulations or generally accepted technical rules and thereby seriously jeopardizes human lives or health, or property, shall be sentenced to one to five years in prison.

(2) A person who commits the offence referred to in Paragraph 1 of this Article out of negligence shall be sentenced with up to three years in prison.

#### **Negligent Keeping of Dogs and other Dangerous Animals Article 321**

(1) A person taking out dogs or other dangerous animals to public places without a muzzle that is prescribed by law or other adequate means of protection and failing to exercise close watch and thereby causes danger to lives and health of persons and property, shall be fined or sentenced with six months in prison.

(2) If a person has suffered a bodily injury in consequence of the offence from Paragraph 1 of this Article, the perpetrator shall be sentenced with up to one year in prison.

#### **Grave Offences against General Safety of People and Property Article 322**

(1) If the offence referred to in Article 317 (Causing of State of General Danger), Paragraphs 1 to 3, Article 318 (Destroying or Damaging Important Economic Facilities or

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Public Facilities), Paragraphs 1 and 2, Article 319 (Damaging of Safety Equipment at Work), Paragraphs 1 and 2 and Article 320 (Unlawful and Improper Construction), Paragraph 1 of this Code resulted in grievous bodily harm of a person or large-scale damage of property or if any of these offences have been committed out of hatred, the perpetrator

shall be sentenced with one to ten years in prison.

(2) If the offence referred to in Article 317, Paragraph 1 to 3, Article 318, Paragraphs 1 and 2, Article 319, Paragraphs 1 and 2 and Article 320, Paragraph 1 of this Code resulted in death of one or several persons, the perpetrator shall be sentenced with one to twelve years in prison.

(3) If the offence referred to in Article 317, Paragraph 4, Article 318, Paragraphs 3 and 4, Article 319, Paragraph 3 and Article 320, Paragraph 2 of this Code resulted in grievous bodily harm or large-scale damage of property, the perpetrator shall be sentenced with up to five years in prison.

(4) If the offence referred to in Article 317, Paragraph 4, Article 318, Paragraphs 3 and 4, Article 319, Paragraph 3 and Article 320, Paragraph 2 of this Code resulted in death of one or several persons, the perpetrator shall be sentenced with one to eight years in prison.

### **Unlawful Transportation of Explosives or Inflammable Substances** **Article 323**

A person who, contrary to the regulations on transportation of explosive and flammable material, delivers such material to be transported by means of public transportation, or who transports such material himself, or transports it himself using public transportation shall be fined or sentenced with up to one year in prison.

### **Damaging of Dams** **Article 324**

A person who damages built or natural dams serving as safeguard against natural disasters, shall be fined or sentenced with up to one year in prison.

### **Failure to Eliminate Danger** **Article 325**

(1) A person who fails to undertake measures to prevent fire, flood, explosion, traffic accident or other danger to human life and health or considerable property by a duly report to a competent authority or in some other way, although having been able to have done so without causing danger to himself or another person,

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shall be fined or sentenced to prison to up to one year.

(2) A person who averts or otherwise prevents another to undertake measures for preventing fire, flood, explosion, traffic accident or some other danger to human life or health or considerable property,

shall be sentenced with three months to three years in prison.

## **XXVIII CHAPTER TWENTY – EIGHT CRIMINAL OFFENCES AGAINST TRAFFIC SAFETY**

### **Jeopardizing Traffic Article 326**

(1) A road traffic participant who fails to comply with traffic regulations and thereby endangers traffic so as to seriously jeopardize human lives or property, causing grievous bodily injury or property damage exceeding KM 5,000 in consequence, shall be sentenced with up to five years in prison.

(2) A person who jeopardizes human life or health or causes damage to considerable property by endangering safety of rail, maritime, tramway, trolleybus or cable car transportation, shall be sentenced with up to five years in prison.

(3) A person who commits the offence referred to in Paragraphs 1 and 2 of this Article out of negligence, shall be sentenced with up to three years in prison.

### **Jeopardizing Traffic Due to Intoxication Article 327**

(1) A person driving a motor vehicle under the influence of alcohol or other intoxicating substance, although therefore obviously incapable of driving safely, and by doing so jeopardizes traffic in such a manner as to cause serious danger to human life or health or considerable property, shall be sentenced with up to three years in prison.

(2) A person who commits the offence referred to in Paragraph 1 of this Article out of negligence, shall be fined or sentenced with up to one year in prison.

### **Jeopardizing Traffic by Dangerous Activity Article 328**

(1) A person who by destroying, removing or seriously damaging traffic equipment, devices, signs or signals designed for traffic safety, or by giving false signs or signals,

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setting up road blocks or in other way jeopardizes traffic so as to cause danger to human life or health or considerable property,

shall be sentenced with up to three years in prison.

(2) A person who commits the offence referred to in Paragraph 1 of this Article out of negligence,

shall be fined or sentenced with up to one year in prison.

### **Careless Supervision over Traffic Article 329**

(1) A responsible person appointed to supervise the condition and maintenance of roads and subsidiary structures thereof, means of transportation, or public transportation, or to supervise whether the prescribed requirements of work of drivers were met, or a responsible person entrusted with managing the traffic, and who by careless performance of his duties causes danger to human life or health or considerable property, shall be sentenced with up to five years in prison.

(2) The sentence referred to in Paragraph 1 of this Article shall be imposed on a responsible person who issues a travel order or permits a drive despite being aware of the fact that the driver is not capable to safely operate his vehicle due to fatigue, illness, influence of alcohol or some other reasons, or if the vehicle is not in a proper condition, and thereby causes danger to human life or health or considerable property.

(3) A person who perpetrates the offence referred to in Paragraphs 1 and 2 of this Article out of negligence, shall be fined or sentenced with up to three years in prison.

### **Grave Offences against Traffic Safety Article 330**

(1) If the offence referred to in Article 326 (Endangering of Traffic), Paragraph 1, resulted in large-scale property damage, and the offence from Paragraph 2 of the same Article, Article 327 (Jeopardizing Traffic Due to Intoxication), Paragraph 1, Article 328 (Jeopardizing Traffic by a Dangerous Activity), Paragraph 1 and Article 329 (Careless Supervision over Traffic), Paragraphs 1 and 2 of this Code, resulted in grievous bodily injury of a person or in large-scale damage of property, the perpetrator shall be sentenced with six months to five years in prison.

(2) If the offence referred to in Article 326, Paragraphs 1 and 2, Article 327, Paragraph 1, Article 328, Paragraph 1 and Article 329, Paragraphs 1 and 2 of this Code, resulted in death of one or several persons, the perpetrator shall be sentenced with no less than one year in prison.

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(3) If the offence referred to in Article 326, Paragraph 3, Article 327, Paragraph 2, Article 328, Paragraph 2 and Article 329, Paragraph 3 of this Code resulted in grievous bodily injury of a person or property damage of a great extent, the perpetrator shall be sentenced with six months to five years in prison.

(4) If the offence referred to in Article 326, Paragraph 3, Article 327, Paragraph 2, Article 328, Paragraph 2 and Article 329, Paragraph 3 of this Code resulted in death of one or several persons, the perpetrator shall be sentenced with one to eight years in prison.

#### **Failure to Render Aid to Person Injured in Traffic Accident Article 331**

(1) A driver of a motor vehicle or another means of transportation who fails to render aid to a person injured by that means of transportation or whose injuries were caused by the respective driver,

shall be fined or sentenced with up to one year in prison.

(2) If a grievous bodily injury or death of the injured person by criminal offence from Paragraph 1 of this Article, the perpetrator

shall be sentenced with three months to three years in prison.

### **XXIX CHAPTER TWENTY – NINE CRIMINAL OFFENCES AGAINST JUDICIARY**

#### **Conspiracy to Commit Criminal Offence Article 332**

Whoever agrees with another person to perpetrate a criminal offence defined by the Code of Brcko District of BiH, for which a punishment of imprisonment of three years or a more severe punishment may be imposed, unless a more severe punishment is foreseen for conspiracy to commit a particular criminal offence, shall be fined or sentenced to up to one year in prison.

#### **Preparation of Criminal Offence Article 333**

Whoever procures or prepares means, or removes obstacles, or engages in any other activity that creates conditions for a direct perpetration, but is not part of the act of perpetration of a criminal offence prescribed by the Code of Brcko District of BiH, for which a punishment of imprisonment of three years or a more severe punishment may be imposed, unless a separate punishment has been prescribed for conspiracy to commit such a criminal offence,

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shall be fined or sentenced with up to three years in prison.

### **Associating to Commit Criminal Offence Article 334**

(1) Whoever organizes or otherwise associates three or more persons with an aim of perpetrating criminal offences prescribed by the Code of Brcko District BiH, for which a three-year imprisonment sentence, or a more severe sentence may be imposed, unless a separate punishment is foreseen for such organizing or associating for the purpose of perpetrating a particular criminal offence,

shall be sentenced to six months to five years in prison.

(2) Whoever becomes a member of the group of people or an association from Paragraph 1 of this Article,

shall be punished by a fine or sentenced to one year in prison.

(3) A member of a group of people who exposes such a group or a member of an association who exposes such an association prior to him having perpetrated criminal offence within its ranks or for its sake, may be released from punishment.

(4) The organiser who prevents the perpetration of the criminal offences referred to in Paragraph 1 of this Article by exposing the group of people or association or otherwise, shall be punished by a fine or sentenced to one year in prison, and may be released from punishment.

### **Participation in Criminal Group Article 335**

(1) A person who takes part in a group of people who causes death of a person through a joint action, or causes grave bodily harm to that person, commits arson, inflicts damage to considerable property, or commits other grave offences, or who attempts to commit such offences,

shall be sentenced with three months to five years in prison for participating in the group.

(2) A person who organizes or in any way directs a group of persons committing a criminal offence from Paragraph 1 of this Article

shall be sentenced with one to ten years in prison.

### **Criminal Enterprise Article 336**

(1) A person who commits a criminal offence defined by the Code of Brcko District as a member of a criminal enterprise,

shall be sentenced with three years or more in prison, if a separate punishment is not prescribed for a particular criminal offence.

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(2) A person who commits a criminal offence prescribed by the Code of Brcko District as a member of a criminal enterprise, punishable by three years or more imprisonment sentence,

shall be sentenced with five years in prison or more, if a separate punishment is not prescribed for a particular criminal offence.

(3) A person who organizes or in any way directs a criminal enterprise which commits or attempts to commit a criminal offence defined by the Code of Brcko District through a joint activity,

shall be sentenced with ten years or more in prison or long-term imprisonment, if a separate punishment is not prescribed for a particular criminal offence.

(4) A person who becomes a member of a criminal enterprise, who commits or attempts to commit a criminal offence defined in the Code of Brcko District of Bosnia and Herzegovina,

shall be sentenced with one year or more in prison, if a separate punishment is not prescribed for a particular criminal offence.

(5) A member of the criminal enterprise from Paragraphs 1 through 4 of this Article who uncovers the criminal enterprise, may be released from punishment.

#### **Manufacturing and Purchase of Weapons and Instruments for Crime Article 337**

(1) A person who manufactures, purchases or enable another person to obtain weapons, explosive substances or ingredients for manufacturing thereof or poisons that are known to be intended for commission of a crime

shall be sentenced to three months to five years in prison.

(2) A person who manufactures or makes available to another person a false key, master-key, or another item or instrument for forced entry, despite being aware that it was intended for a criminal offence,

shall be sentenced with up to one year in prison.

#### **Failure to Report Preparation of Criminal Offence Article 338**

(1) A person having knowledge about the preparation of the criminal offence punishable by three years or more severe imprisonment sentence pursuant to the Code of Brcko District and fails to report the fact at the time when the commission of the offence could still have been averted, and the offence is attempted or committed,

shall be sentenced to up to one year in prison.

(2) A person who commits the criminal offence from Paragraph 1 of this Article in relation with the criminal offence punishable by long-term imprisonment sentence in the Code of Brcko District BiH ,

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shall be sentenced with six months to five years in prison.

(3) No punishment shall be imposed on a person who is the perpetrator's spouse, partner, first-line blood relative, sibling, adoptive parent, or adopted child, or spouse, or partner, or the defence counsel, physician, or a confessor, for the criminal offence from Paragraphs 1 and 2 of this Article.

### **Failure to Report Criminal Offence or Perpetrator Article 339**

(1) A person who knows the identity of a perpetrator of a criminal offence for which the Code prescribes long-term imprisonment, or who merely has knowledge that such an offence has been committed, and fails to report the fact, although the timely discovery of the perpetrator or offence depends on such report,

shall be fined or sentenced to prison up to three years.

(2) The sentence from Paragraph 1 of this Article shall be imposed on an official or a responsible person who fails to report a criminal offence he has discovered while performing his duties, if the Code prescribes five years in prison or more for such offence.

(3) No punishment for the criminal offence from Paragraphs 1 and 2 of this Article shall be imposed on a person who is the perpetrator's spouse, partner, first-line blood relative, sibling, adoptive parent or adopted child or spouses or partners thereof, or on the perpetrator's defence counsel, physician or confessor.

(4) If the criminal offence from Paragraphs 1 and 2 of this Article has been committed against a child or a minor, the punishment shall be imposed on the physician, dentist, midwife, or an employee of a health institution, psychologist, public notary and a social welfare worker.

### **Assistance to Perpetrator after Commission of Criminal Offence Article 340**

(1) A person who hides a perpetrator of a criminal offence punishable by three years imprisonment sentence, or who helps him escape discovery by concealing instruments, traces or in some other way, or who hides a convict or undertakes other actions aiming to prevent the execution of the pronounced sentence, security measure, or to avoid of an institutional correctional measure,

shall be sentenced with up to one year in prison.

(2) A person who renders assistance to a perpetrator of a criminal offence for which the Code prescribes the sentence of five years in prison or more, but not a long-term prison sentence

shall be sentenced with six months to five years in prison.

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(3) A person who renders assistance from Paragraph 1 of this Article to the perpetrator of a criminal offence for which a long-term imprisonment sentence may be pronounced, shall be sentenced with one to ten years in prison.

(4) The punishment for the offences from Paragraphs 1 to 3 of this Article may not exceed the severity of either the type or the duration of the sentence prescribed for the criminal offence for which the assistance has been rendered.

(5) No punishment for the offences referred to in Paragraphs 1 to 3 of this Article shall be imposed on a person who is the perpetrator's spouse, partner, first-line blood relative, sibling, adoptive parent or adopted child, or spouses or partners thereof, or the defense counsel, physician or priest of the perpetrator.

#### **False Reporting Article 341**

(1) A person who reports a particular person for having committed a criminal offence defined by the Code of Brcko District of BiH, knowing that such person is not the perpetrator, shall be sentenced with six months to five years in prison.

(2) The punishment from Paragraph 1 of this Article shall be imposed on a person who plants evidence of a criminal offence or in some other way causes criminal prosecution to be initiated on account of a criminal offence defined by the Code of Brcko District of BiH against a person whom he knows not to be the perpetrator.

(3) A person who reports himself as the perpetrator of a criminal offence defined by the Brcko District of BiH, although he is not the perpetrator thereof, shall be fined or sentenced with up to six months in prison.

(4) The punishment from Paragraph 3 of this Article shall be imposed on a person who reports the commission of a criminal offence defined by the Code of Brcko District of BiH, despite being aware that such commission never took place.

#### **Perjury Article 342**

(1) A witness, expert witness, translator or court interpreter who commits perjury in the court of a court, misdemeanour, administrative, or disciplinary proceedings, shall be fined or sentenced with up to three years in prison.

(2) The punishment referred to in Paragraph 1 of this Article shall be imposed on a party who, during the presentation of evidence while hearing parties in civil or administrative proceedings in Brcko District of Bosnia and Herzegovina, commits perjury and the ruling passed has been founded on that testimony.

(3) If perjury is committed in a criminal proceeding in Brcko District of BiH, the perpetrator

Prepared by Halisa Skopljak

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shall be sentenced to prison from six months to five years.

(4) If the offence referred to in Paragraph 3 of this Article resulted in particularly grave circumstances for the accused,

the perjurer shall be sentenced with one to ten years in prison.

(5) If the perjurer voluntarily withdraws his false testimony before the passing of the final ruling, he

shall be fined or sentenced with up to six months in prison, and may be released from punishment.

### **Obstruction of Evidentiary Procedure Article 343**

(1) A person who uses force, threat or other kind of force or who promises a gift or some other benefit to make a witness or an expert witness give a false testimony in the course of the court, misdemeanour, administrative or disciplinary proceedings in Brcko District of BiH,

shall be sentenced with six months to five years in prison.

(2) A person who conceals, damages, destroys someone else's object or document that may be used as evidence, aiming to prevent or significantly hamper the collecting of evidence on trial, in the course of a court, misdemeanour, administrative or disciplinary proceedings in Brcko District of BiH

shall be fined or sentenced with up to three years in prison.

(3) The punishment from Paragraph 1 of this Article shall be imposed on a person who conceals, destroys, moves or removes a boundary marking stone, geodetic mark or any other mark denoting ownership or other property right or the use of water, or on a person who falsely places such mark, aiming to prevent or significantly hamper the evidentiary procedure in the course of a court, misdemeanour, administrative or disciplinary proceedings in Brcko District of BiH.

### **Breach of Secrecy of Proceedings Article 344**

A person who reveals without authorization the information learned during a court, misdemeanour, or administrative proceedings in Brcko District of BiH, and that information may not be revealed according to the law or it has been declared secret by a decision of a competent institution of Brcko District of BiH,

shall be fined or sentenced with up to one year in prison.

### **Failure to Execute Court Decision Article 345**

Prepared by Halisa Skopljak

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Includes texts published in the OG BDBiH 10/03, 45/04, 6/05, 21/10, and 9/13

(1) A responsible person in a government authority or legal entity or other institutions in Brcko District of BiH who fails to act pursuant to a valid court decision shall be fined or sentenced with up to three years in prison.

(2) The sentence from Paragraph 1 of this Article shall be imposed on a responsible person who refuses to enforce a decision of the Human Rights Chamber or a decision of the Constitutional Court of Bosnia and Herzegovina that he is obliged to execute.

(3) If the criminal offence from Paragraphs 1 and 2 of this Article resulted in a severe violation of someone else's right or in a considerable material damage, the perpetrator shall be sentenced with one to five years in prison.

#### **Disclosure of Identity of Protected Witness Article 346**

A judge of the Court of Brcko District Bosnia and Herzegovina or other official person who participated in hearing of the protected witness in a criminal proceeding conducted pursuant to the Code of Brcko District of Bosnia and Herzegovina, who makes available to an unauthorized person data on the identity of a protected witness, shall be sentenced with six months to five years in prison.

#### **Violation of Court Ban from Performing Occupation, Activity or Duty Article 347**

A person who enables another to perform an occupation, activity or duty despite his knowledge that the court has passed the decision on pronouncing the security measure of ban to perform an occupation, activity or duty, or a protective measure of ban from performing certain duties, or that ban occurred as legal consequence of a conviction, shall be fined or sentenced with up to one year in prison.

#### **Mutiny of Detainees Article 348**

(1) A person detained in accordance with law, who joins other persons detained in accordance with law with an intention of liberating themselves forcefully, or to jointly attack persons under whose supervision they had been placed, or to compel the aforementioned by force or threat of immediate use of force or fail to do something contrary to their duty, shall be sentenced with up to three years in prison.

(2) If the offence from Paragraph 1 of this Article resulted in grievous bodily harm of a person, or if property damage was caused of a great extent the perpetrator shall be sentenced with one to ten years in prison.

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(3) If the offence from Paragraph 1 of this Article resulted in the death of one or more persons,  
the perpetrator shall be sentenced with one to twelve years in prison.

#### **Escape of Detainee Article 349**

A detainee who escapes from a penitentiary or prison by using force or threat of immediate attack against life and body of another person,  
shall be sentenced with three months to five years in prison.

#### **Enabling Escape of Detainees Article 350**

(1) A person who uses force, threat, deception or in some other way to enable escape of a person who was lawfully deprived of liberty,  
shall be sentenced with three months to five years in prison.

(2) A person who commits the offence from Paragraph 1 of this Article as part of a group shall be sentenced with one to eight years in prison.

#### **Violation of Law by Judge Article 351**

A judge of a court in Brcko District of BiH who passes an unlawful judgment or otherwise violates the law with an aim of providing gain to another person, or incur damage to another person,  
shall be sentenced with six months to five years in prison.

### **XXX CHAPTER THIRTY CRIMINAL OFFENCES AGAINST PUBLIC ORDER AND LEGAL TRANSACTIONS**

#### **Obstructing Official in Executing Official Duty Article 352**

(1) A person who by using force, or threat of immediate use of force, prevents an official in executing of an official duty within the scope of his powers, or a person who, in the same way, compels an official to perform an official duty,  
shall be sentenced with three months to three years in prison.

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(2) If an official is insulted, abused, or caused bodily injury by the criminal offence from Paragraph 1 of this Article, or if the criminal offence from Paragraph 1 of this Article was committed through threats of using weapons, the perpetrator shall be sentenced with six months to five years in prison.

(3) A person who commits the offence referred to in Paragraphs 1 and 2 of this Article against an official in performing duties of public safety, or safety of Brcko District of Bosnia and Herzegovina, or duties of keeping of public order, apprehension of the perpetrator of a criminal offence or guarding a person deprived of liberty, shall be sentenced with three months to five years in prison.

(4) If the perpetrator of the offence referred to in Paragraphs 1 to 3 of this Article has been provoked by an unlawful or brutal conduct of the official, he may be released from punishment.

#### **Attack on Official Executing Security Duties Article 353**

(1) A person who attacks or seriously threatens to attack an official person, or a person assisting him in carrying out of public safety duties or safety in Brcko District of Bosnia and Herzegovina, or duties of keeping of public order shall be sentenced with three months to three years in prison.

(2) If the perpetrator, while committing the offence referred to in Paragraph 1 of this Article, ill-treated the official person or the person assisting him, inflicted a light bodily injury, or if the criminal offence from Paragraph 1 of this Article was committed with a threat that weapons will be used, he shall be sentenced with six months to five years in prison.

(3) If an official or the person assisting him suffers grievous bodily harm through the criminal offence from Paragraph 1 of this Article the perpetrator shall be punished by a sentence of imprisonment from one to ten years.

(4) If the perpetrator of the criminal offence referred to in Paragraphs 1 to 3 of this Article has been provoked by unlawful or brutal conduct of an official person or the person assisting the official, he may be released from punishment.

#### **Participating in Group Preventing Officials in Executing Official Duty Article 354**

(1) A person who participates in a group, who, by joint action, prevents or tries to prevent an official in executing of an official duty, or thus compels him to execute the official duty,

he shall be sentenced for the act of participation with up to three years in prison.

(2) A person who organizes, or leads a group in any way, which commits the criminal offence referred to in Paragraph 1 of this Article

Prepared by Halisa Skopljak

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shall be sentenced with one to five years in prison.

**Organizing Resistance**  
**Article 355**

(1) A person who organizes or calls others to present forceful resistance to lawful decisions or measures of competent organs, or resists an authorized official in executing of the official duty,

shall be fined or sentenced to prison to up to three years.

(2) If the commission of the offence referred to in Paragraph 1 of this Article prevented or obstructed the execution of a lawful decision or measure of the competent organ, the perpetrator shall be sentenced to prison from three months to three years.

(3) The organizer or the leader of the group that commits the criminal offence from Paragraph 1 of this Article

shall be sentenced with six months to five years in prison.

**Violent Behaviour**  
**Article 356**

(1) A person who jeopardizes peace of citizens by rude insult or brutal abuse, by committing violence against another, provoking a fight or by particularly insolent or ruthless behaviour,

shall be fined or sentenced by up to two years in prison.

(2) A person who commits the offence referred to in Paragraph 1 of this Article within a group of persons, or if the criminal offence from Paragraph 1 of this Article caused severe humiliation of several persons, or if it resulted in a light bodily injury, the perpetrators shall be sentenced to prison from three months to three years.

**Unauthorized Ownership of Radio or Television Station and Public Disturbance  
through their Use**  
**Article 357**

(1) A person who owns a radio or a television station contrary to regulations of the communication system, or uses a radio or a television station without the necessary authorization,

shall be fined or sentenced to prison to up to one year.

(2) A person in serious violation of the code of professional conduct of media and journalists, uses inciting language or the language of hate, or the language which obviously calls for or instigates violence, national or ethnic clashes, and thereby induces jeopardy to public peace and order,

shall be fined or sentenced to prison up to three years.

Prepared by Halisa Skopljak

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OG BDBiH 47/11- official consolidated version, (52/11)

Includes texts published in the OG BDBiH 10/03, 45/04, 6/05, 21/10, and 9/13

### **Unauthorized Exercise of Profession Article 358**

A person who, without authorization, for remuneration, exercises a profession for which he must have a lawful permission of a competent organ or organization shall be fined or sentenced with up to one year in prison.

### **Failing to Participate in Averting Public Emergency Article 359**

A person who, contrary to orders of a competent organ, refuses without justified reason to participate in eliminating the danger of fire, flood or similar emergency, shall be fined or sentenced to up to six months in prison.

### **Removing or Damaging of Official Seal or Sign Article 360**

A person who removes or damages an official seal or sign which has been put by an authorized official for the purpose of securing a particular object or premises, or a person who opens the secured object, or enters such premises, or who opens the secured object, or enters such premises, without removing or damaging the seal or sign shall be sentenced with three months to three years in prison.

### **Confiscation or Destruction of Official Seal or Official Documents Article 361**

A person who unlawfully takes, hides, destroys, damages, or in some other way makes useless an official seal, book, file or document belonging to, or placed with an institution in Brcko District of BiH or some other legal entity exercising public authorizations, shall be sentenced with up to three years in prison.

### **Destroying or Concealing Archive Materials Article 362**

A person who destroys, conceals, or in some other way makes archive materials useless, or who takes archive materials abroad without prior approval of the competent organ, shall be sentenced with three months to three years in prison.

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**False Impersonation  
Article 363**

(1) A person who, intending to obtain a benefit for himself or someone else, or to cause damage to someone else, falsely identifies himself as an official or a military person, or a person who wears insignia of an official or a military person without authorization, shall be fined or sentenced with up to one year in prison.

(2) The sentence referred to in Paragraph 1 of this Article shall be imposed on a person who performs an activity which only an authorized official is allowed to perform.

**Arbitrary Exercise of Rights  
Article 364**

(1) A person who uses force or a serious threat to exercise his right or a right he believes he is entitled to,

shall be fined or sentenced with up to six months in prison.

(2) If the offence from Paragraph 1 of this Article was committed by a member of a group or association formed for the purpose of committing such offence, the perpetrator shall be sentenced with three months to three years in prison.

**Unlawful Possession of Weapons or Explosive Substances  
Article 365**

(1) An unauthorized person who manufactures, repairs, sells, purchases or exchanges firearms, ammunition or explosive substances, or an unauthorized person who possesses firearms, ammunition or explosive substances that residents are not allowed to obtain, shall be sentenced with up to three years in prison.

(2) If the criminal offence from Paragraph 1 of this Article involves a large quantity of firearms, ammunition or explosive substances, the perpetrator shall be sentenced with one to ten years in prison.

**Misuse of Emergency or Alarm Signals  
Article 366**

A person who misuses an emergency or alarm signal, or makes a false emergency call in order to cause the action of government body officials or firemen, or to block traffic, shall be fined or sentenced with up to six months in prison.

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### **Counterfeiting Documents** **Article 367**

(1) A person who makes a false document or alters the authentic document in order to use such document as the original, or a person who uses such document as the original, or obtains it for such use,

shall be sentenced with a fine or with up to three years in prison.

(2) If the offence referred to in Paragraph 1 of this Article was committed with a public document, will, bill of exchange, cheque, public or official book or some other book that has to be kept in accordance with the law,

the perpetrator shall be sentenced with three months to five years in prison.

### **Special Cases of Counterfeiting Documents** **Article 368**

A person shall be deemed to have committed the offence of counterfeiting documents and shall be punished in accordance with Article 369 (Counterfeiting Document), Paragraph 1 of this Code, if he:

- 1) without authorization, enters a statement relevant to legal relations into a document, form or some other item which has already been signed by another person;
- 2) deceives another about the contents of a document or signs such document claiming that he is signing another document or a document of some other contents;
- 3) issues a document on behalf of another person without authorization of that person, or if he issues a document on behalf of a person that does not exist;
- 4) as an issuer of a document claims certain position, title or rank he is not entitled to by adding it to his signature, such claim having a vital influence on the power of evidence of said document;
- 5) drafts a document by way of unauthorized use of authentic seal or sign.

### **Certification of False Contents** **Article 369**

(1) A person who misleads a competent organ and induces it to certify, in a public document, register or book, any false matter designed to be used as evidence in legal transactions,

shall be sentenced with three months to five years in prison.

(2) The sentence referred to in Paragraph 1 of this Article shall be imposed on a person who uses such document, register or book despite of his awareness of its falsehood.

Prepared by Halisa Skopljak

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### **Issuing and Use of False Medical, or Veterinary Certificate Article 370**

(1) A physician, dentist or a veterinary who issues a false medical or veterinary health certificate, despite of his being aware of its falsehood, shall be sentenced with up to one year in prison.

(2) A person who uses a false medical or veterinary health certificate despite him being aware of its falsehood, shall be fined or sentenced with up to six months in prison.

### **Unauthorized Practice of Law Article 371**

A person who does not have prerequisite qualifications and renders legal assistance illegally, for remuneration, shall be fined or sentenced with up to one year in prison.

### **Disturbance of Religious Rites Article 372**

(1) A person who disturbs or prevents a religious rite shall be fined or sentenced with up to one year in prison.

(2) A person who commits the criminal offence from Paragraph 1 of this Article by using force or by a serious threat to use force shall be sentenced with three months to three years in prison.

### **Defiling of Grave Article 373**

(1) A person who, without authorization, digs, devastates, damages or otherwise brutally defiles a grave or a place of interment or a memorial, shall be fined or sentenced with up to six months in prison.

(2) A person who, without authorization, digs, devastates, damages, hides or relocates a corpse, a part of a corpse or ashes, or who defiles a corpse, shall be fined or sentenced with up to one year in prison.

## **XXXI CHAPTER THIRTY - ONE CRIMINAL OFFENCES OF BRIBERY AND OFFENCES AGAINST OFFICIAL AND OTHER RESPONSIBILITY**

Prepared by Halisa Skopljak

(In case of any issue regarding authenticity of text or translation, the local language version shall prevail)<sup>129</sup>

**Accepting Gifts and Other Benefits (Passive Bribery)**  
**Article 374**

(1) An official or responsible person in Brcko District of Bosnia and Herzegovina, including a foreign official person, who demands or accepts a gift or other benefit, or who accepts a promise of a gift or other benefit to perform, within the scope of his authorization, an action which he should not perform, or not to perform an action he should perform,

shall be sentenced with one to ten years in prison.

(2) An official or responsible person in Brcko District of Bosnia and Herzegovina, including a foreign official person, who demands or accepts a gift or other benefit, or who accepts the promise of a gift or other benefit to perform, within the scope of his authorization, an action which he should perform, or not to perform an action he should not perform,

shall be sentenced with six months to five years in prison.

(3) An official or responsible person in Brcko District of Bosnia and Herzegovina, including a foreign official person, who demands or accepts a gift or other benefit upon performing the action or failure to perform the actions from Paragraphs 1 and 2 of this Article,

shall be punished by the sentence from Paragraph 2 of this Article .

(4) The accepted gift or property gain shall be confiscated.

**Giving Gift and other Benefits (Active Bribery)**  
**Article 375**

(1) A person who gives or promises an official or responsible person in Brcko District of Bosnia and Herzegovina, including a foreign official, a gift or other benefit to perform, within the scope of his authorization, a forbidden action, or not to perform what is his duty, or a person who mediates in such bribing of an official or responsible person, shall be sentenced with six months to five years in prison.

(2) A person who gives or promises an official or responsible person in Brcko District of Bosnia and Herzegovina, including a foreign official, a gift or other benefit to perform, within the scope of his authorization, what is his duty, or not to perform what is forbidden to perform, or a person who mediates in such bribing of an official or responsible person, shall be fined or sentenced with up to three years in prison.

(3) The perpetrator of the offence referred to in Paragraphs 1 and 2 of this Article who has given a bribe upon the request of an official or responsible person in Brcko District of Bosnia and Herzegovina, including a foreign official, and reported the act prior to the discovery of such act, or prior to knowledge that the act has been discovered, may be released from punishment.

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(4) The accepted gift or property gain shall be confiscated, and in the case referred to in Paragraph 3 of this Article, it may be returned to the person who had given the bribe.

#### **Unlawful Intermediation Article 376**

(1) A person who accepts a reward or other benefit to use his official or social position or influence in Brcko District of Bosnia and Herzegovina in order to intermediate in performing or non-performing of an official action, shall be fined and sentenced with up to three years in prison.

(2) A person who uses his official or social position or influence in institutions of Brcko District of Bosnia and Herzegovina to intermediate in performing of a forbidden official action, or in failure to perform an action which should be performed, shall be sentenced with from six months to five years in prison.

(3) If a reward or other benefit has been accepted for the commission of the criminal offence from Paragraph 2 of this Article, the perpetrator shall be sentenced with one to ten years in prison.

#### **Abuse of Office or Official Authority Article 377**

(1) An official or a responsible person in Brcko District of Bosnia and Herzegovina who uses his office or official authority to acquire a benefit for himself or for another, cause a damage to another or to seriously violate the rights of another by having exceeded the limits of his official authority, or having failed to perform his official duty, shall be sentenced with six months to five years in prison.

(2) If the offence referred to in Paragraph 1 of this Article resulted in acquiring a property gain exceeding the amount of KM 10,000, the perpetrator shall be sentenced with one to ten years in prison.

(3) If the offence referred to in Paragraph 1 of this Article resulted in acquiring a property gain exceeding the amount of KM 50,000, the perpetrator shall be sentenced with at least three years in prison.

#### **Misappropriation Article 378**

(1) A person who, intending to acquire an unlawful property gain for himself or another, appropriates money, securities or other movables entrusted to him by virtue of his office, or generally, by employment in positions in institutions in Brcko District of Bosnia and Herzegovina, shall be sentenced with six months to five years in prison.

Prepared by Halisa Skopljak

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Includes texts published in the OG BDBiH 10/03, 45/04, 6/05, 21/10, and 9/13

(2) If the offence referred to in Paragraph 1 of this Article resulted in acquisition of a property gain exceeding KM 500, the perpetrator shall be fined or sentenced to up to one year in prison.

(3) If the offence referred to in Paragraph 1 of this Article resulted in acquisition of a property gain exceeding KM 10,000, the perpetrator shall be sentenced with one to eight years in prison and if the property gain exceeding KM 50,000 the perpetrator shall be sentenced with two to ten years in prison.

#### **Fraud in Performing an Official Duty Article 379**

(1) An official or a responsible person in Brcko District of Bosnia and Herzegovina, who, intending to acquire an unlawful property gain for himself or another, by submitting false accounts, or in some other way deceives an authorized person into making an unlawful payment,

shall be sentenced with six months to five years in prison.

(2) If the offence referred to in Paragraph 1 of this Article resulted in acquisition of a property gain exceeding KM 10,000, the perpetrator shall be sentenced with one to ten years in prison.

(3) If the offence referred to in Paragraph 1 of this Article resulted in acquisition of a property gain exceeding KM 50,000, the perpetrator shall be sentenced with at least three years in prison.

#### **Unauthorized Use of Office Property Article 380**

A person who makes an unauthorized use of money, securities or other movables entrusted to him by virtue of his office or generally, by employment in positions in institutions in Brcko District of Bosnia and Herzegovina, or who without authorization gives these to another for use,

shall be fined or sentenced with up to three years in prison.

#### **Unprofessional Exercise of Official Duties Article 381**

(1) An official or a responsible person in Brcko District of Bosnia and Herzegovina, who, by violation of the law, other regulation or a general document, or by failing to exercise due supervision, demonstrates obvious negligence in exercise of official duties, thereby causing severe violation of another's right or a property damage exceeding KM 1,000, shall be fined or sentenced with up to three years in son.

Prepared by Halisa Skopljak

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(2) If the offence referred to in Paragraph 1 of this Article resulted in a serious violation of another's right or in property damage exceeding KM 10,000, the perpetrator shall be sentenced with six months to five years in prison.

### **Revealing Official Secret Article 382**

(1) An official person or a responsible person in Brcko District of Bosnia and Herzegovina, who without authorization, reports, gives or in some other way renders available, the information which is regarded as an official secret, or a person who obtains such information intending to give it to an unauthorized person, shall be sentenced with six months to five years in prison.

(2) The sentence from Paragraph 1 of this Article shall also be imposed on a person who unlawfully uses information regarded as an official secret, with an aim of making unauthorized use of such information, or a person who makes this information public without authorization.

(3) If the offence referred to in Paragraph 1 of this Article has been committed out of hope of material gain, or if it refers to particularly confidential data, or publishing or using information outside Brcko District the perpetrator shall be sentenced with one to ten years in prison.

(4) An official or responsible person in Brcko District who commits the criminal offence from Paragraph 1 of this Article out of negligence shall be fined or sentenced with up to three years in prison.

(5) The offence from Paragraph 2 of this Article will not be considered as committed, if a person makes an official secret public, or mediates in publication of a secret of an institution in Brcko District, the contents of which is in contravention with the Constitution and the order of Brcko District as established by the Statute, with an aim to reveal improprieties in organization, activity and management of a body, if the publication does not have negative bearing against Brcko District.

(6) Provisions from Paragraphs 1 to 4 of this Article shall also be applied to a person who has revealed an official secret after his official function or responsibility in Brcko District has ceased.

### **Counterfeiting of Official Documents Article 383**

(1) An official or a responsible person in Brcko District who enters false data or fails to enter important data in an official or business document, book or file; or who certifies with an official stamp or his signature an official or business document, book or file containing false data; or who enables the making of such document, book or file containing false data using his signature or an official seal,

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shall be sentenced with six months to five years in prison.

(2) The sentence from Paragraph 1 of this Article shall also be imposed on an official or responsible person in Brcko District who uses a false official or business document, book or file as authentic in the office or business, or who destroys, conceals, substantially damages or in some other way makes useless an official or business document, book or file.

#### **Unlawful Collection and Payment Article 384**

An official or a responsible person in Brcko District who collects from another a payment the latter is not obliged to pay, or who collects more than the latter is obliged to pay, or a person who pays or delivers less during a payment or delivery of any items, shall be fined or sentenced with up to three years in prison.

#### **Unlawful Liberation of a Detainee Article 385**

An official person in Brcko District who unlawfully liberates a detainee entrusted to him for custody, or helps the detainee to escape, or allows him to keep an illegal connection or correspondence whose purpose is to prepare the escape, shall be sentenced with six months to five years in prison.

#### **Unlawful Appropriation of Objects during Search or Decision Enforcement Article 386**

An official person in Brcko District who, during search of an apartment, premises or persons, or while enforcing a decision, takes a movable object intending to acquire an unlawful property gain for himself or another, shall be sentenced with one to ten years in prison.

**XXXII CHAPTER THIRTY – TWO**  
**CRIMINAL OFFENCES AGAINST SYSTEMS OF ELECTRONIC DATA**  
**PROCESSING**

**Damaging of Computer Information and Programs**  
**Article 387**

(1) A person who damages, changes, deletes, destroys or otherwise makes useless or unavailable another person's computer information or programs, shall be fined or sentenced with up to one year in prison.

(2) A person who enters computer data or programs without authorization, despite security measures, or who intercepts transfer thereof without authorization, shall be fined or sentenced with up to three years in prison.

The sentence from Paragraph 2 shall be imposed on a person who prevents or hinders operations or use of computer system, data or programs, or computer communication.

(3) If the criminal offence from Paragraphs 1 through 3 of this Article was committed on a computer system, information or program of a governmental body, public authority, public institution or a trading company of special public importance, or if considerable damage was done,

the perpetrator shall be sentenced with three months to five years in prison.

(4) A person who illicitly manufactures, purchases, sells, hold in possession, or makes available to another person special devices, computer programs or electronic data, made or adapted to commit the criminal offence from Paragraphs 1 through 3 of this Article, shall be fined or sentenced with up to three years in prison.

(5) Special devices, instruments, computer programs or data made, used or adapted for commission of criminal offences, used to commit the criminal offence from Paragraphs 1 through 3 of this Article, shall be confiscated.

**Electronic Forgery**  
**Article 388**

(1) A person who illegally produces, enters, changes, deletes or makes useless computer information or programs relevant for legal affairs, with the intention to use such information or programs as valid or who uses himself such information or programs, shall be fined or sentenced up to three years in prison.

(2) If the criminal offence from Paragraph 1 of this Article was committed on a computer information or program of a body, public authority, public institution or a trading company of special public importance, or if considerable damage was done, the perpetrator shall be sentenced with three months to five years in prison.

(3) A person who illicitly manufactures, purchases, sells, holds in possession, or makes available to another person, special devices, instruments, computer programs or

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Includes texts published in the OG BDBiH 10/03, 45/04, 6/05, 21/10, and 9/13

electronic data, made or adapted to commit the criminal offence from Paragraph 1 and 2 of this Article,

shall be fined or sentenced with up to three years in prison.

(4) Special devices, instruments, computer programs or data made, used or adapted for commission of criminal offences, used to commit the criminal offence from Paragraph 1 and 2 of this Article, shall be confiscated.

### **Computer Fraud Article 389**

(1) A person who unlawfully enters, damages, changes or conceals computer information or program, or in some other way influences the output of electronic data processing, with the intention to acquire a property gain for himself or another and in that way causes a property damage to another,

shall be sentenced to six months to five years in prison.

(2) If the offence from Paragraph 1 of this Article resulted in a property gain exceeding the amount of KM 10,000,

the perpetrator shall be sentenced from two to ten years in prison.

(3) If the offence referred to in Paragraph 1 of this Article resulted in a property gain exceeding the amount of KM 50,000,

the perpetrator shall be sentenced from two to twelve years in prison.

(4) A person who commits the offence referred to in Paragraph 1 of this Article with the sole intention to cause damage to another,

shall be fined or sentenced to up to three years in prison.

### **Disrupting Operation of System and Network for Electronic Data Processing Article 390**

A person who accesses a system or network for electronic data processing without authorization and causes a halt or disturbs the operating of that system or network, shall be fined or sentenced to up to three years in prison.

### **Unauthorized Access into Protected System and Network for Electronic Data Processing Article 391**

(1) A person who accesses a system or network for electronic data processing by violating measures for protection without authorization, shall be fined or sentenced up to one year in prison.

(2) A person who uses the information obtained in the manner stipulated in Paragraph 1 of this Article,

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(In case of any issue regarding authenticity of text or translation, the local language version shall prevail)<sup>136</sup>



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shall be sentenced to up to three years in prison.

(3) If the offence from Paragraph 2 of this Article resulted in serious consequences for another,

the perpetrator shall be sentenced from six months to five years in prison.

**Computer Sabotage**  
**Article 392**

A person who enters, changes, deletes or conceals computer information or program or in some other way interferes with a computer system, or destroys or damages devices for electronic data processing with the intention to prevent or significantly obstruct the course of electronic data processing important for governmental bodies, public services, public institutions, trading companies or other legal persons of special public importance, shall be sentenced from one to eight years in prison.

**XXXIII CHAPTER THIRTY - THREE**  
**TRANSITIONAL AND FINAL PROVISIONS**

**Cessation of Application of the Former Code**  
**Article 393**

With the commencement of application of this Code, the Criminal Code Brcko District of Bosnia and Herzegovina (“Official Gazette of Brcko District of Bosnia and Herzegovina”, vols. 6/2000, 1/2001 and 3/2003) shall cease to apply.

**Duty to Adjust the Final and Binding Criminal Sanction with this Code**  
**Article 394**

Enforcement of final and binding criminal sanctions pronounced pursuant to provisions of the Criminal Code from Article 391 (*Cessation of Application of the Former Code*) of this Code whose enforcement had not commenced as of yet, or is ongoing, shall be adjusted to the provisions of this Code in the pronouncement, substance and manner of enforcement, as of the date when this Code enters into force.