

REPUBLIC OF SERBIA

**LAW ON EXECUTION OF CRIMINAL  
SANCTIONS**

Belgrade, 2020

*LAW ON EXECUTION OF CRIMINAL SANCTIONS*

*Note:* This is a true translation of the original Law,  
but it is not legally binding.

Original title:

*ZAKON O IZVRŠENJU KRIVIČNIH SANKCIJA*

© 2020, JP “Službeni glasnik”

Sva prava su zadržana. Nijedan deo ove brošure ne može biti reprodukovan niti smešten u sistem za pretraživanje ili emitovan u bilo kom obliku, elektronski, mehanički, fotokopiranjem, snimanjem ili na drugi način, bez prethodne pismene dozvole izdavača.

All rights reserved. No part of this work may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying and recording, or by any information storage or retrieval system, without permission in writing from the publishers.

## CONTENTS

### **LAW ON EXECUTION OF CRIMINAL SANCTIONS**

Part One .....	3
Part Two .....	17
Part Three .....	63
Part Four .....	67
Part Five.....	68
Part Six .....	71
Part Seven .....	83
Part Eight.....	83
<i>ARTICLES NOT INCLUDED IN THE FINAL TEXT</i> .....	84



# LAW ON EXECUTION OF CRIMINAL SANCTIONS\*

## Part One GENERAL PART

### Chapter One

#### BASIC PROVISIONS

##### Contents of the Law

###### Article 1

This Law shall regulate, unless where specified otherwise by the special law, the procedure for execution of criminal sanctions against persons of age, the rights and obligations of the persons against whom criminal sanctions are executed, the organization of the Administration for the Enforcement of Criminal Sanctions, supervision over its operations, execution of sanctions imposed for commercial misdemeanours and offences, confiscation of proceeds from criminal or commercial offence and application of remand measures.

In the procedure of criminal sanction execution against minors, as well as in the procedure for execution of custodial sentences imposed for misdemeanours, provisions of this Law shall apply, unless where specified otherwise by a special law.

Where the issue referred to in paragraph 1 of this Article is regulated otherwise by a ratified international treaty, provisions of such treaty shall apply.

##### **The Purpose of Execution of Criminal Sanctions**

###### Article 2

By the execution of criminal sanction shall, the general and the individual purpose of their imposition shall be realized with the aim of successful social reintegration of the convicted persons.

##### **Execution of the Decisions of Foreign Courts**

###### Article 3

Provisions of this Law shall additionally apply on execution of criminal sanctions imposed by foreign courts, when that is laid down by means of a special law and an international agreement.

---

\* Published in the *Službeni glasnik RS*, Nos. 55/14 of 23 May 2014 and 35/19 of 21 May 2019. The latest changes are given in *italic*.

## **Preconditions for Enforcement**

### Article 4

Enforcement of a criminal sanction shall commence when the decision imposing the sanction becomes enforceable, providing that there are no legal obstacles for enforcement of the criminal sanction.

Enforcement of the decision, before its finality, may commence when that is specifically prescribed by the law.

## **Staying and Suspension of Enforcement of Criminal Sanctions**

### Article 5

Enforcement of criminal sanctions can be stayed and suspended under the conditions prescribed by this Law only.

## **Basic Provisions on the Position of the Person against Whom a Criminal Sanction Is Enforced**

### Article 6

A criminal sanction shall be enforced in such a manner as to guarantee respect for the dignity of the person against whom it is enforced.

Actions whereby the person against whom a criminal sanction is enforced is subjected to any form of torture, inhuman or degrading punishment or treatment, abuse or experimenting shall be prohibited and punishable.

Coercion against a person against whom a criminal sanction is enforced shall be punishable if it is disproportionate to the needs for the enforcement thereof.

## **Non-discrimination**

### Article 7

The person against whom a criminal sanction is enforced must not be discriminated against on the grounds of the race, colour of the skin, sex, language, religion, political and other convictions, national or social origin, financial standing, education, social status or any other personal characteristic.

## **Protection and Restriction of Fundamental Rights**

### Article 8

The person against whom a criminal sanction is enforced shall have the right to protection of the fundamental rights laid down by the Constitution, ratified international agreements, universally accepted rules of the international law and this Law.

The fundamental rights of the person against whom a criminal sanction is enforced may be restricted only to the extent necessary to enforce the criminal sanction and in the procedure prescribed by this Law.

Judicial protection shall be permitted against individual acts whereby decisions are made on the rights and obligations of the person against whom a criminal sanction is enforced, which shall be ensured the judge enforcing the criminal sanctions (hereinafter: the enforcement judge) in compliance with this Law.

No duty shall be paid for the submissions, official actions and decisions relating to the application of the provisions of this Law, unless where specified otherwise by the law.

## **Records Keeping and the Principal Book**

### **Article 9**

Penitentiary institutions shall keep records on the persons against whom criminal sanctions are enforced and measures referred to in Article 12, paragraphs 1 and 2 of this Law are applied, on the persons visiting the penitentiary institution, as well as on the procedures and events in the penitentiary institution that are of significance for enforcement of criminal sanctions.

The records referred to in paragraph 1 of this Article shall contain personal data, the criminal sanction and the measure imposed, as well as information of significance for the enforcement thereof.

The Administration and penitentiary institution shall additionally keep records on the employees, equipment and arms.

The records on criminal sanctions and measures imposed, as well as on the persons deprived of liberty shall be kept in the Principal Book.

The records shall be kept by hand and electronically.

The Principal Book shall include the source record according to the type of the criminal sanction or the measure and the personal file.

The personal file shall include the file of the convicted person in which all the documents, decisions and rulings of significance for execution of the sanction shall be inserted.

The following pieces of personal data shall be entered in the Principal Book: name, surname and nickname of the person, sex, father's name, maiden surname and name of the mother, date of birth, unique citizen's identification number, place, municipality and state of birth, domicile, i.e. residential address, nationality, national and religious affinity (where the person wishes to state it), marital status, number of children, educational background, profession, completed training courses and specialities, person's employment, special needs and personal description.

With the aim of executing the criminal sanction, the following pieces of personal data on the family members of person deprived of liberty shall additionally be entered in the personal file: name and surname of the family member, unique citizen's identification number, affinity, domicile, i.e. residential address and telephone number.

The regulation on method of maintaining the records referred to in paragraph 1 and paragraph 3 of this Article shall be passed by the Minister in charge of judiciary.

## **Supplemental Records Book**

### **Article 10**

Records on actions and events of significance for execution of criminal sanctions and measures, records on persons visiting the penitentiary institution or persons deprived of liberty shall be kept through the supplemental books.

Supplemental books shall be: the records on the daily headcount, calendar of sanction expiration dates, records of the successful escapes, records of the removals executed, records of the deceased persons, records of the suspended sanctions, records of the persons released from enforcement of custodial sentences on parole, records on disciplinary penalties imposed on persons deprived of liberty, the records of submissions, complaints, appeals and applications for court protection of the persons deprived of liberty, the records of the provision of assistance in the penitentiary institution, the records of the provision of assistance by other authorities, the records of application of the means of coercion, the records of application of special measures

aimed at maintenance of peace and security, the records of use of the test for detection of narcotics taken by the persons deprived of liberty, the records of completed blood alcohol tests on the persons deprived of liberty and of the employees, the records on completed visits to the penitentiary institution and persons placed in specially secured room by the management and head of the security service, the records of visits to the persons in solitary confinement and isolation, the records of receipts of packages by and of the visits to persons deprived of liberty, the records of medical check-ups, the records of food quality controls, the records of the persons refusing medical treatment, food or water, the records of organisation and performance of cultural and athletic activities, the records of advanced professional training and education of the convicted persons, the records of occupational injuries, the records of occupational engagement of the convicted persons in the penitentiary institution and outside of the penitentiary institution, the records of taken annual leaves by the convicted persons, the records of visits paid by the defending attorneys and the records of persons that are visiting the penitentiary institution or the persons deprived of liberty.

The following shall be entered in the records of receipt of packages by and visits to the persons deprived of liberty, records of defence lawyers and records of persons visiting the penitentiary institution and persons against whom criminal sanctions and measures are enforced: name and surname of the visitor, the unique citizen's identification number, personal identity card number and the number of official attorney identity card.

### **Means for Enforcement of Criminal Sanctions**

#### Article 11

Means for enforcement of criminal sanctions shall be provided in the budget of the Republic of Serbia.

The person against whom a criminal sanction is enforced shall not pay any costs of the enforcement, unless where determined otherwise by the law.

#### Chapter Two

### **PUBLIC AUTHORITIES COMPETENT FOR THE ENFORCEMENT OF CRIMINAL SANCTIONS**

#### **I. ADMINISTRATION FOR THE ENFORCEMENT OF PENAL SANCTIONS**

##### **Activity of the Administration**

#### Article 12

The Administration of the Enforcement of Penal Sanctions (hereinafter: the Administration) shall organize, carry out and supervise the enforcement of custodial sentences, juvenile detention, community service sanctions, conditional conviction with protective supervision, security measures of compulsory psychiatric treatment and confinement in a medical institution, compulsory alcohol and drug addiction treatment as well as of the measure of referral for rehabilitation in a correctional institution (hereinafter: criminal sanctions).

The Administration shall enforce the remand measure and other measures aimed at ensuring presence of the accused persons in criminal proceedings in compliance with the law and shall perform other tasks specified by the law.

The Administration shall be included in procedures of social reintegration and admission of the convicted persons.

The Administration shall be an authority within the Ministry in charge of the judiciary.

The Government shall prescribe the internal organisation, organisation and scope of work of the organisational units comprising the Administration.



The Administration shall organise and implement the programs of continuous professional training and advanced professional training of the employees.

The Administration shall realise cooperation with relevant institutions, associations and organisations dealing with the problems related to the enforcement of criminal sanctions.

## 1. ORGANISATION OF THE ADMINISTRATION

### 1.1 Penitentiary Institutions

#### *Types of Penitentiary Institutions*

##### Article 13

There are following types of penitentiary institutions within the Administration (hereinafter: penitentiary institutions):

- 1) a correctional facility and district prison – for the enforcement of custodial sentences and remand measures;
- 2) a correctional facility for women – for the enforcement of custodial sentences and juvenile detention;
- 3) a juvenile correctional facility – for the enforcement of juvenile detention;
- 4) Special Prison Hospital – for the treatment of convicted and detained persons, for the enforcement of security measures of compulsory psychiatric treatment and confinement in a medical institution, compulsory treatment of alcoholics and compulsory treatment of drug addicts;
- 5) residential correctional facility – for the enforcement of correctional measure of referral to a residential correctional facility.

#### *Types of Penitentiary Institutions According to the Security Levels*

##### Article 14

According to the security levels, the penitentiary institutions can be of the open, semi-open, closed and closed type with special security.

There are no physical or technical obstacles for escape in the penitentiary institutions of the open type.

In the penitentiary institutions of the semi-open type, employees of the security service shall be the basic obstacle for escape.

In the penitentiary institutions of the closed type, in addition to the employees of the security service, there are other physical and technical obstacles aimed at preventing the escapes, and in the penitentiary institutions of the closed type with special security, there are physical and technical obstacles owing to which the highest security level is achieved.

#### *Types of Individual Types of Penitentiary Institutions*

##### Article 15

The correctional facilities for women, the district prison and the residential correctional facility shall of the semi-open type.

The Special Prison Hospital and the juvenile correctional facility shall be of the closed type.

## *Wards in Penitentiary Institutions*

### Article 16

The penitentiary institutions can have open, semi-open and closed wards.

### *The Educational and Professional Training Centre*

### Article 17

Professional training and advanced professional training of employees with the Administration shall be carried out in the Educational and Professional Training Centre of the Administration for the Enforcement of Penal Sanctions (hereinafter: the Training Centre).

Where necessary, the Training Centre shall organize and carry out professional training, training and advanced training of employees working with other public authorities as well.

The Training Centre shall coordinate the activities of the penitentiary institution relating to carrying out of training and professional training of the convicted persons.

*The regulation governing the operations of the Training Centre, as well as the organization and carrying out of training, professional training and advanced professional training shall be passed by the Minister in charge of judiciary.\**

### *Establishing of Penitentiary Institutions and the Training Centre*

### Article 18

A penitentiary institution and the Training Centre shall be established based on the Government regulation.

The regulation on establishing of penitentiary institutions shall determine the kind, type, wards and seat of the penitentiary institution, i.e. the activity and seat of the Training Centre.

## **1.2. Services in Prisons**

### *Types of Services*

### Article 19

The penitentiary institution can have the following services:

- 1) treatment service;
- 2) security service;
- 3) training and occupational service;
- 4) health protection service;
- 5) general administration service.

Joint services can be established for two or more penitentiary institutions.

### *The Treatment Service*

### Article 20

The treatment service shall assess the individual needs, capacities for change and the risk levels of the convicted persons for repeat offending, determine and carry out tailored programs of actions for individuals and apply methods and procedures with the aim of achieving individual prevention.

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

The treatment service shall determine the sentence programs for the convicted persons, harmonize the work of other services and other participants in the implementation of the programs and carry out other tasks specified by this Law.

### *The Security Service*

#### Article 21

The Security Service, as a unique formation of the Administration, shall take care of security of people and property in penitentiary institutions, transport the convicted persons and persons in detention, take part in determining and implementation of programs of actions for the convicted persons and carry out other tasks specified by the law.

The Security Service shall transport the convicted persons and persons in detention in service vehicles that shall be equipped with devices for emitting special light and sound signals, prescribed ventilation and lights.

The members of Security Service shall enjoy the status of authorized officers and shall be authorized to carry arms, to carry out inspections of the rooms in penitentiary institutions and to search such rooms, to check and search the persons and to carry out body checks and search on them, except for the checks of body cavity search, which shall be performed by medical workers, to implement the measures aimed at maintenance of order and security in the penitentiary institution and to carry out other tasks specified by the law.

The Security Service shall carry out preparatory activities and an action plan for emergency situations or during national emergencies. Special units comprising of the members of Security Service and employees with other services can be established for actions in emergency situations or during national emergencies.

The Security Service may use service dogs for detection of narcotic drugs or psychoactive substances, as well as explosive means or devices.

### *Carrying of Arms and Uniforms in the Security Service*

#### Article 22

The Security Service members shall carry arms and uniforms.

Upon the approval of the Director of the Administration, a member of the Security Service may carry the official arms for their personal security outside of the working hours as well.

The competent Police Directorate shall be notified of the issued approvals referred to in paragraph 2 of this Article, for the purpose of maintaining the records of approvals issued.

A member of the Security Service to whom an authorisation for carrying official arms has been issued for personal safety outside of the working hours shall be obliged to carry it in a safe manner, as well as to take all security measures to prevent any abuse of the arms, i.e. the possession of the arms by any unauthorized persons.

By way of exception, the members of Security Service may, upon the order of Director of the Administration or manager of the penitentiary institution, carry out their duties in civilian clothes.

The Director of the Administration shall determine the occasions when the dress uniforms shall be worn.

## *Training and Occupation Service*

### Article 23

The Training and Occupation service shall train the convicted persons to work, organize their work and carry out other tasks specified by the law, in compliance with the sentence programs for the convicted persons.

The convicted persons shall be trained and they shall work in the penitentiary institutions or outside of the penitentiary institutions.

The work of the Training and Occupation Service shall be carried out within the legally permitted business activities and in compliance with the regulations governing the pursuit of each individual business activity.

At the proposal of the manager of the penitentiary institution, the Director of the Administration shall decide on the type and scope of pursuit of the activity.

The products and services created by the work of the Training and Occupation Service may be used for the needs of the Administration, for the own needs of the penitentiary institution and for the needs of other penitentiary institutions.

The penitentiary institution may sell in the market any products and services created during training and work of the convicted persons.

The revenues made by selling of products and services created through training and work of the convicted persons shall be used by the penitentiary institution, in compliance with the financial plan of the penitentiary institution that has been passed with the consent of the Director of the Administration. The revenue shall be used to pay for the costs incurred through the work of the convicted persons, remuneration for work and reward for work of the convicted persons, technological upgrading of the work and improvement of conditions of life, education and work of the convicted persons.

Earning of revenues from the training and work of the convicted persons must not have any harmful effect to the realisation of the purpose of the training and occupation.

The regulation governing the operations of the Training and Occupation Service shall be passed by the Minister in charge of judiciary.

## *Health Care Service*

### Article 24

The Health Care Service shall carry out healthcare prevention, provide treatment for the convicted persons and persons in detention, monitor the hygiene and quality of food and water and participate in determining and implementation of the sentence program for the convicted person.

The penitentiary institution shall have at least one medical doctor and two medical technicians, and must additionally provide services of one psychiatrist.

When the hospital treatment is organized in a penitentiary institution, the penitentiary institution must have a medical doctor and the hospital staff with adequate professional qualifications and have the necessary hospital rooms and medical supplies, tools, devices and medicines.

The penitentiary institution must have a special room for separation of the convicted persons with diseases, depending on the nature of the disease.

A penitentiary institution for women must have special equipment for the care of pregnant women, puerperae and medical treatment of women.

Full professional independence shall be guaranteed and ensured for the medical worker who performs check-ups and provides medical treatment of the convicted persons, in compliance with the law and the code of ethics.

#### *General Administration Service*

##### Article 25

The General Administration Service shall carry out the legal, administrative, accounting, financial, recording and other tasks of general significance for the penitentiary institution and shall provide legal assistance to the convicted persons and persons in detention.

### **1.3. Regulation on House Rules of the Penitentiary Institution**

##### Article 26

The life and work of the convicted persons shall be prescribed in more detail by means of a regulation governing the house rules of the penitentiary institution.

The life and work of the persons placed in the Special Prison Hospital for the enforcement of security measures and of the persons referred to medical treatment from other penitentiary institutions shall be regulated in more detail by a regulation governing the house rules of the Special Prison Hospital.

The regulations governing the house rules of the penitentiary institution, i.e. of the Special Prison Hospital shall be passed by the Minister in charge of the judiciary.

### **1.4. Management in the Administration**

#### *Director of the Administration*

##### Article 27

The Director of the Administration shall manage the operations of the Administration.

The Director of the Administration shall be appointed by the Government, at the proposal of the Minister in charge of judiciary, for a period of five years.

The Director of the Administration shall represent the Administration and shall be responsible for lawful and correct enforcement of criminal sanctions in the Republic of Serbia.

The Director shall have the status of a civil servant on a position.

*A person who graduated from a faculty of law, second degree study course (a Master academic study course, Master vocational study course, specialist academic study course), a basic academic study course with the 240 ECTS credits, and/or from a basic study course of the duration of four years at the minimum or from a specialist study course at a faculty, with at least nine years of professional experience in the same profession following the completion of higher education, of which at least seven years of professional experience from the managerial positions, can be appointed director of the Administration. \**

#### *Manager of a Penitentiary Institution*

##### Article 28

A penitentiary institution shall be managed by the manager of the penitentiary institution.

At a proposal by the Director of the Administration, the manager of a penitentiary institution shall be assigned by the Minister in charge of judiciary.

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

The manager of a penitentiary institution shall represent the penitentiary institution and shall be responsible for the lawful and proper work in the penitentiary institution.

The manager of a penitentiary institution may have a deputy that shall be assigned, at the proposal by the Director of the Administration, by the Minister in charge of the judiciary.

A person with seven years of professional experience gained from the work in the positions relating to execution of criminal sanctions, in the judiciary, in the practice of law, Army or Police, following the higher education acquired in a second degree study course (a basic university study course –Master, a specialist academic study course, specialist vocational study course) and/or a basic study course in the duration of four years can be assigned to the position of a manager and deputy manager of a penitentiary institution.

#### *Head of Service*

##### Article 29

A service in the penitentiary institution shall be managed by the head of service.

A head of service shall be assigned, at the proposal of the manager of a penitentiary institution, by the Director of the Administration.

A person who has a higher education degree from a second degree study course (the undergraduate academic study course - Master, a specialist academic study course, specialist vocational study course) and/or a basic study course degree of the duration of four years and who has five years of professional experience from the same or other relevant jobs can be assigned to the position of a head of service.

#### *Official Identity Card*

##### Article 30

The Director of the Administration, security service staff, employees of the organisational units of the Administration in charge of surveillance, security, as well as the heads and deputy heads of departments in the Administration headquarters, managers of penitentiary institutions and their deputies shall have official identity cards and badges, the contents, appearance, form of which and method of maintaining records on issued official identity cards and badges shall be prescribed by the Minister in charge of judiciary.

The Administration shall maintain the records of issued identity cards and badges, which shall comprise of:

- 1) the serial number under which the official identity card and the badge are registered;
- 2) the name and surname of the person to whom the official identity card and badge are issued;
- 3) the date of issuance of the official identity card and of the badge;
- 4) the signature of the person to whom the official identity card is issued;
- 5) the notes.

The holders of official identity cards and badges shall be obliged to carry the official identity card and the badge when carrying out their tasks.

## II. PUBLIC CHARACTER OF WORK OF THE ADMINISTRATION

##### Article 31

The work of the Administration shall be public.

The Minister in charge of judiciary and the Director of the Administration shall, either directly or through persons duly authorized by them, inform the general public of the execution of criminal sanctions, on condition that no regulations governing the secrecy of data are thus breached and that security or maintenance of order in penitentiary institutions are not seriously threatened.

### **Visits to Penitentiary Institutions**

#### Article 32

Individual and group visits to a penitentiary institution shall be approved by the Director of the Administration.

Representatives of the domestic and international institutions and associations dealing with the protection of human rights shall be permitted to visit the penitentiary institutions.

By way of exception, visits can be denied due to the reasons relating to security and safety in the penitentiary institution. A duly reasoned reply shall be delivered to the institution or association referred to in paragraph 2 of this Article within three days from the date of receipt of an application for visit.

With the aim of ensuring publicity of work of the Administration, it shall be ensured that visits of the media representatives, scientists pursuing studies of crime, as well as students of relevant schools are permitted.

The Director of the Administration may permit the persons visiting a penitentiary institution to talk with the convicted persons, in the presence or without the presence of an employee with the penitentiary institution.

### **III. ENFORCEMENT JUDGES**

#### **The Notion of a Judge for Enforcement of Criminal Sanctions**

##### Article 33

In each higher court, in compliance with this Law, a judge for enforcement of criminal sanctions (hereinafter: enforcement judge) shall be designated.

The enforcement judge shall be designated by the President of the higher court, among the judges of that court.

In the cases for which they are competent, the enforcement judges shall act as individual judges.

A special expert service, comprising of the employees with the court, may assist the enforcement judge in their work.

The enforcement judges shall, in compliance with the Court Rules of Procedure, maintain separate records on the cases in which they act.

#### **Jurisdiction in Rem**

##### Article 34

The enforcement judge shall protect the rights of the persons in detention, convicted persons, persons against whom a security measure of compulsory psychiatric treatment and confinement in a medical institution, compulsory treatment of a drug addict or compulsory treatment of an alcoholic is imposed when such measures are carried out in a penitentiary institution, supervise the legality in the procedures of criminal sanctions' enforcement and ensures equality and equivalence of these persons before the law.

The enforcement judges shall also decide on:

1) the protection of rights following the filing of complaints by the persons in detention and applications for court protection of the convicted persons, persons against whom a measure of compulsory psychiatric treatment and confinement in a medical institution, compulsory treatment of a drug addict or compulsory treatment of an alcoholic is imposed when such measures are carried out in a penitentiary institution;

2) protection of rights of the convicted persons by deciding upon appeals against the decisions of the managements of penitentiary institutions or Director of the Administration, in the cases provided for by this Law;

3) other cases provided for by the law.

### **Territorial Jurisdiction**

#### Article 35

Higher courts shall have jurisdiction for the protection of rights of the convicted persons during enforcement of custodial sentences according to the location of the seat of the penitentiary institution in which the convicted person serves the custodial sentence.

Higher courts shall have jurisdiction for the protection of rights of the persons in detention during the term of the remand measure according to the location of the seat of the penitentiary institution in which the measure is enforced.

In case of a change of place of enforcement of the custodial sentence or remand measure, a higher court shall have jurisdiction for any further actions vis-à-vis the convicted person, i.e. person in detention, according to the location of the seat of the penitentiary institution to which the convicted person, i.e. person in detention is transferred. The enforcement judge in the place in which the seat of the penitentiary institution from which the convicted person, i.e. person in detention has been transferred is located shall immediately deliver the files of the case to the enforcement judge in the place in which the seat of the penitentiary institution to which the convicted person, i.e. person in detention has been transferred is located.

### **Proceedings before the Enforcement Judge**

#### Article 36

The proceedings before the enforcement judge shall be initiated at the application of a convicted person or upon a complaint of a person in detention, and in a second instance procedure upon an appeal.

During the proceedings, the enforcement judge shall enable the convicted person, i.e. person in detention or the penitentiary institution to state their views in writing on the facts indicated in the application or complaint.

Provisions of the Code of Criminal Procedure shall apply *mutatis mutandis* to the proceedings before the enforcement judge unless where determined otherwise by this Law or another law.

### **Complaints of the Persons in Detention and Applications of the Convicted Persons for Court Protection**

#### Article 37

If a person in detention considers that any of his/her rights is violated during the enforcement of the remand measure in the penitentiary institution, he/she shall have the right to file a complaint with the enforcement judge orally to be entered in the records or in writing.

The convicted person shall have the right to file an application for court protection against the decision of the Director of the Administration, within three days from the date of



delivery of the decision, if he/she considers that any of his/her rights envisaged in Articles 76 through 125 of this Law is thus unlawfully limited or violated.

Before filing an application for court protection, the convicted person shall be obliged to also address the authorities in the procedure prescribed in Articles 126 and 127 of this Law for the protection of his/her rights.

By way of exception, a convicted person may file an application for court protection directly with the enforcement judge in cases where their right to life or bodily integrity is seriously threatened.

The convicted person or the person in detention shall have the right to file a complaint with the enforcement judge within three months from the date of occurrence of the violation of right, and exceptionally within six months where he/she has been objectively prevented from doing so.

### **Hearing before an Enforcement Judge**

#### Article 38

An enforcement judge may hold a hearing in which the parties to the proceedings shall orally present their opinions of the facts and evidence of importance for passing of a court decision.

The enforcement judge shall hold a hearing if he/she assesses from the statements in the complaint, i.e. application for court protection and other evidence that the right to life, bodily integrity or health of the person in detention or convicted person is jeopardized.

If the person in detention or the convicted person has an attorney-in-fact, the attorney-in-fact shall be summoned for the hearing as well. If the duly summoned attorney-in-fact fails to respond to the court summons, the hearing shall be held in his/her absence.

A hearing can be held in a court or in the premises of the penitentiary institution.

During the proceedings, the enforcement judge may hear as witnesses the persons employed with the penitentiary institution, other convicted persons, he/she may acquire or inspect the documentation of the penitentiary institution and other public authorities, visit the premises of the penitentiary institution and determine the facts in some other manner.

### **Decisions of the Enforcement Judge**

#### Article 39

In the proceedings before an enforcement judge decisions shall be made in the form of decisions.

An enforcement judge shall reject a complaint of a person in detention, an application for court protection or an appeal of a convicted person if it is untimely, deficient or impermissible.

When deciding upon a complaint by a person in detention, i.e. an application for court protection of a convicted person, the judge shall refuse the complaint or the application for court protection if he/she determines that it is unfounded.

If the enforcement judge determines that a complaint by a person in detention, i.e. an application for court protection is duly grounded, he/she shall order the penitentiary institution to remove the unlawfulness within a specified time limit and to inform him/her of the measures taken with a view to removing such unlawfulness. Where the removal of unlawfulness is not possible, the enforcement judge shall determine the unlawfulness and prohibit its further repetition.

When deciding upon an appeal against a decision of a manager of a penitentiary institution or of the Director of the Administration, the enforcement judge shall:

1) refuse the appeal as unfounded and confirm the decision of the first instance authority;

2) grant the appeal and revoke the decision that has been appealed against and refer the case to the first instance authority for a renewed decision making or alternatively grant the appeal and reverse the first instance decision.

### **Procedure upon an Appeal against a Decision of a Manager of a Penitentiary Institution and the Director of the Administration**

#### Article 40

A convicted person may file an appeal with the enforcement judge against a decision of the manager of the penitentiary institution or the Director of the Administration within three days from the delivery date of the decision, in the cases envisaged by this Law.

The appeal must include information on the decision against which it is filed, the reason for filing the appeal and the signature of the person filing the appeal.

An appeal filed against a decision referred to in paragraph 1 of this Article in a timely manner shall not have the suspensive effect on the enforcement of the decision.

The convicted person shall file the appeal through the penitentiary institution with the first instance authority, which shall be obliged to immediately deliver the appeal with the files of the case to the enforcement judge.

The person filing the appeal may propose in the appeal that new facts are determined and new evidence is acquired, if they had not been known at the time when the decision appealed was passed.

### **Procedure upon Appeal against a Decision of the Enforcement Judge**

#### Article 41

Appeals can be filed against decisions of the enforcement judges on the complaint of the persons in detention (Article 37, paragraph 1) and applications for court protection (Article 37, paragraph 4).

The appeal shall be filed with the extra-procedural council of the same court, through the enforcement judge that has passed the first instance decision, within three days from the date of receipt of the first instance decision.

The panel referred to in paragraph 2 of this Article shall decide on the appeal within eight days from the receipt date of the appeal.

### ***Procedure upon an Application for Enforcement of Custodial Sentence in the Residential Premises of the Convicted Person\****

#### *Article 41a\**

*Following the finality of the judgement and until presenting himself/herself for the enforcement of custodial sentence, the convicted person may file an application for enforcement of the imposed custodial sentence not exceeding one year in his/her residential premises.\**

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

*The application referred to in paragraph 1 of this Article shall be decided upon by the enforcement judge of the court that has passed the first instance decision, i.e. where the judgment has been passed by the basic court, the decision shall be passed by the enforcement judge of the immediately superior higher court.\**

*Prior to passing the decision, the enforcement judge shall acquire the opinion of the public prosecutor.\**

*On the occasion of making the decision on the application referred to in paragraph 1 of this Article, the enforcement judge shall take into account whether the purpose of sanctioning can be achieved through the change of the enforcement method of the custodial sentence.\**

*In the decision whereby the application referred to in paragraph 1 of this Article is granted, the enforcement judge shall determine that the enforcement of custodial sentence in the residential premises of the convicted person be ordered with the application of electronic monitoring measures or without the application thereof.\**

*Prior to passing of the decision referred to in paragraph 5 of this Article, the enforcement judge shall take into account the technical possibilities for the enforcement of the sanction, as well as other circumstances of significance for the enforcement thereof.\**

*The convicted person and the public prosecutor may file appeals against the decision of the enforcement judge referred to in paragraph 2 of this Article with the extra-procedural council of the same court, through the enforcement judge who has passed the first instance decision, within three days from the decision receipt date.\**

*The extra-procedural council of the same court shall decide on the appeal against the decision of the enforcement judge, by mutatis mutandis application of the law regulating criminal procedure.\**

*Provisions of the law regulating enforcement of sanctions and measures outside of the penitentiary institutions shall apply mutatis mutandis to the enforcement of custodial sentence not exceeding one year in the residential premises of the convicted person in the manner specified in the decision referred to in paragraph 5 of this Article.\**

## **Information on the Condition of Rights of the Convicted Persons**

### **Article 42**

The enforcement judge shall at least once in four months during the year visit the penitentiary institutions in the territory for which he/she has territorial jurisdiction, talk with the convicted persons and inform them of the methods for exercising of their rights.

## **Part Two**

### **ENFORCEMENT OF CRIMINAL SANCTIONS**

#### **Chapter Three**

#### **ENFORCEMENT OF CUSTODIAL SENTENCES**

##### **I. GENERAL PROVISIONS**

##### **Purpose of Enforcement of Custodial Sentences**

### **Article 43**

The purpose of enforcement of a custodial sentence is that the convicted person during the enforcement of the custodial sentence, through application of adequate programs of actions,

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

adopts socially acceptable values with the aim of easier inclusion in the conditions of life following the enforcement of the custodial sentence so that he/she does not commit criminal offences in the future.

### **Treatment and Categorisation of Convicted Persons**

#### Article 44

Based on the determined capacities, needs and risk levels, the convicted person shall be treated in the manner that is to the fullest extent possible adequate for his/her personality, with the aim of realizing the sentence program.

With a view to realizing the individual sentence programs, the convicted persons shall be categorized into grades and groups.

### **Prohibition of Conducting Duties that Include Disciplinary Powers**

#### Article 45

A convicted person may not carry out a task within any service of the penitentiary institution that includes disciplinary powers.

### **Serving of Custodial Sentences by the Convicted Persons**

#### Article 46

The convicted persons shall, as a rule, serve the custodial sentences together.

By way of exception from the paragraph 1 of this Article, where that is required by the sentence program, the medical condition of the convicted person or when that is provided for by this Law, it can be determined that the custodial sentence shall be enforced against a convicted person separately from other convicted persons.

The convicted persons of male and female genders shall serve the custodial sentences separately.

### **Conditional Release**

#### Article 47

A convicted person who can be reasonably expected not to commit criminal offences in the future shall be conditionally released from serving of custodial sentence by the court, in compliance with the law.

In the decision making procedure on the conditional release, the penitentiary institution shall be obliged to additionally provide to the court in their report the opinion on the degree of fulfilment of the sentence program and justification of the conditional release.

### **Provision of Assistance to the Persons Released From Enforcement of Custodial Sentences**

#### Article 48

Necessary assistance and support shall be provided to the persons released from enforcement of custodial sentences in order to reduce the risk of committing new criminal offences and in order to facilitate their successful return to the community.

## II. REFERRAL AND ALLOCATION OF THE CONVICTED PERSONS TO PENITENTIARY INSTITUTIONS

### **Referral of the Convicted Persons to Penitentiary Institutions**

#### Article 49

A convicted person shall be referred to serve a custodial sentence in compliance with the regulation passed by the Minister in charge of judiciary governing the referral of the convicted persons to penitentiary institutions.

By way of exception, upon an application of the convicted person filed due to some duly justified reasons, i.e. at the request of the Police or security services due to the security reasons, the Director of the Administration may depart from the regulation referred to in paragraph 1 of this Article and change the place for enforcement of the sanction by means of a decision.

The convicted person shall have the right to appeal against the decision of the Director of the Administration determining the change of place of enforcement of the sanction, with the enforcement judge.

### **Allocation of the Convicted Persons to Penitentiary Institutions**

#### Article 50

A convicted person against whom a custodial sentence has been imposed, the duration or the balance of which following the calculation of remand and other deprivation of liberty related to a criminal offence does not exceed one, and by the way of exception two years shall, *as a rule*,\* be allocated to a district prison.

A convicted person against whom a custodial sentence is imposed of the duration exceeding one year shall as a rule be allocated to a correctional facility.

A convicted woman shall be allocated to correctional facilities for women.

### **Special Cases of Allocation**

#### Article 51

Convicted persons who have committed criminal offences through criminal negligence and persons convicted for the first time to a custodial sentence up to three years shall be allocated to a penitentiary institution of the open type.

Persons against whom correctional measures of referral to a residential correctional facility are imposed shall be allocated to a residential correctional facility.

A person against whom the juvenile detention sanction has been imposed shall be allocated to a juvenile correctional facility.

A person against whom custodial sentence not exceeding ten years has been imposed shall also be allocated to a juvenile correctional facility, if at the time of the referral he/she has not turned twenty three years of age and no custodial sentence has been previously imposed against him/her.

Other convicted persons shall be allocated to correctional penitentiary institutions of the closed type and of the closed type with special security.

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

## **Subsequent Allocation to Penitentiary Institutions**

### Article 52

The Director of the Administration may subsequently allocate a convicted person to another penitentiary institution, where it is determined during the personality tests on the convicted person that the sentence program would be more successfully realized in another penitentiary institution, i.e. due to the security reasons.

The convicted person shall have the right to appeal against the decision of the Director of the Administration determining a subsequent allocation with the enforcement judge.

### **III. IMPRISONMENT ENFORCEMENT REFERRAL PROCEDURE**

#### **Actions Preceding the Referral of the Convicted Person to a Penitentiary Institution**

### Article 53

If the court that has passed the first instance decision does not have jurisdiction to refer the convicted person to the enforcement of a custodial sentence, it shall be obliged to deliver the enforceable decision, with information on the personality of the convicted person acquired during the criminal proceeding, to the court of relevant jurisdiction for referral to the enforcement of the sanction within three days from the date on which the decision has become enforceable.

The competent court shall be obliged to, within 15 days from the receipt of the decision referred to in paragraph 1 of this Article refer the convicted person to enforcement of the sanction.

In the referral procedure for the convicted person to enforcement of a custodial sentence, the court shall cooperate with the Administration. When determining the date for the reporting by the convicted person for the enforcement of the custodial sentence, the court shall be obliged to request a report from the Administration on the number of available places in the penitentiary institutions as well as to take into account the priority of sanction execution, bearing in mind the nature of the criminal offence, the sanction imposed and the time limit for statute of limitation for the sanction.

The regulation on the method of referring persons deprived of liberty to the penitentiary institutions shall be passed by the Minister in charge of judiciary.

#### **Competence for Referral to Enforcement of Sanction**

### Article 54

The basic courts shall be competent for referral of convicted persons to enforcement of custodial sentences according to the domicile, i.e. residence of the convicted person at the time when the decision imposing the sanction has become final.

The same court shall remain competent in case of any subsequent change of the domicile or residence of the convicted person.

#### **Special Cases of Referrals to Enforcement of Sanction**

### Article 55

Where the domicile and the residence of the convicted person are unknown, the basic court that has passed the first instance sentence shall be competent for the referral of the convicted person to enforcement of custodial sentence, and where such decision has been passed by a higher court, the basic court in the place where the seat of such higher court is located shall be competent for the referral.

A convicted person in detention shall be referred to the enforcement of custodial sentence by the basic court in the territory of which the seat of the penitentiary institution in which the convicted person is held on remand is located.

### **Order for the Enforcement of a Sanction**

#### Article 56

The court of relevant jurisdiction shall order the convicted person in writing to present themselves on a specified date for the enforcement of custodial sentence.

Enclosed with the order, a notice on the time when the convicted person is to present themselves in the penitentiary institution, on the permitted objects that they can bring into the penitentiary institution and on other circumstances of significance for the enforcement of the sanction shall be delivered.

The time limit between the receipt of the order and the date of presentation may not be shorter than eight or longer than 15 days.

The court of relevant jurisdiction shall notify the penitentiary institution of the date on which the convicted person is to present himself/herself and shall deliver with the notice the enforceable decision inclusive of information on the personality of the convicted person acquired during the criminal proceedings, as well as the decision whereby the enforcement of the sanction is stayed.

### **Beginning of Enforcement of the Sanction and Transportation Costs**

#### Article 57

The penitentiary institution shall immediately notify the court of relevant jurisdiction that the convicted person has presented himself/herself for the enforcement of the custodial sentence.

The beginning of the enforcement of the custodial sentence shall be calculated from the date on which the convicted person has presented himself/herself to the penitentiary institution for the enforcement of the sanction.

If the convicted person fails to present himself/herself for the enforcement of the sanction within three days from the date on which he/she should have presented himself/herself for the enforcement thereof, the penitentiary institution shall notify the court thereof.

The penitentiary institution shall compensate to the convicted person the transportation costs of public transport from the domicile, i.e. residence to the seat of the penitentiary institution.

The costs of conveying in the penitentiary institution shall be borne by the convicted person.

### **Beginning of the Enforcement of the Sanction in the Case of Conveyance, I.E. Issuing of an Arrest Warrant**

#### Article 58

In the case referred to in Article 57, paragraph 3 of this Law, the court shall order conveyance, and if the convicted person is hiding or is escaping from arrest, it shall order that an arrest warrant be issued and shall notify the penitentiary institution thereof.

In the case referred to in paragraph 1 of this Article, the beginning of enforcement of the custodial sentence shall be counted from the date on which the convicted person is deprived of liberty.

#### IV. STAYING OF ENFORCEMENT OF A CUSTODIAL SENTENCE

##### 1. Staying of a Custodial Sentence upon an Application Filed by the Convicted Person

###### *Reasons and Duration of the Stay of a Custodial Sentence*

###### Article 59

A custodial sentence can be stayed:

1) if the convicted person suffers from a severe acute medical condition – for the duration of such medical condition or due to a severe chronic medical condition, if the convicted person's condition has significantly deteriorated and there is no adequate conditions for their medical treatment in the penitentiary institution or in the Special Prison Hospital;

2) if the convicted woman has entered the sixth month of her pregnancy or has a child that has not yet turned one year of age – up to the child's third birthday at the maximum;

3) due to death or a severe medical condition of the spouse, child, adopted child, parent or adoptive parent of the convicted person – three months from the date of staying at the maximum;

4) if the wife of the convicted person is in the last pregnancy trimester or where less than six months has passed from the childbirth, and there are no other household members to assist her – for six months from the date of staying at the maximum;

5) if together with the convicted person, the spouse or another member of the same household has been summoned for enforcement of a sanction, or where someone of them is already in prison – for six months from the date of staying at the maximum;

6) if the convicted person needs such staying due to pressing field or seasonal works or works caused by an accident, and there is no required manpower in the family of the convicted person – for three months from the date of staying at the maximum;

7) if the convicted person is obliged to complete an already commenced task which, in case of a failure in completion thereof, may cause significant damage – for three months from the date of staying at the maximum;

8) if the convicted person needs such staying to complete schooling – for six months from the date of staying at the maximum;

9) if the convicted person needs such staying to take an exam for which he/she has already been registered – for two months from the date of staying at the maximum.

The date of staying of enforcement of a custodial sentence shall be considered to be the date on which the decision on staying thereof is passed.

###### *Procedure for Staying of the Enforcement of a Custodial Sentence*

###### Article 60

The application for staying of the enforcement of a custodial sentence shall be submitted by the convicted person.

Reasons for staying shall be indicated in the application, proof corroborating indicated reasons shall be enclosed thereto and the requested time period of staying shall be indicated therein.

A convicted person that is already serving a custodial sentence may not submit an application for staying of the enforcement of a subsequent custodial sentence.



### *Time Limit for Submission of Application for Staying*

#### Article 61

An application for staying of enforcement of a custodial sentence shall be submitted within three days from the receipt of the order for the enforcement of the custodial sentence.

If a severe acute disease of the convicted person or death of his/her spouse, child, adopted child, parent or adoptive parent occurs following the expiry of the time limit of three days, the application can be submitted by the date when the convicted person is to present himself/herself for the enforcement of the custodial sentence.

### *Submission of Application for Staying*

#### Article 62

An application for staying of enforcement of a custodial sentence shall be submitted to the President of the Basic Court of relevant jurisdiction.

Where no proof is enclosed with the application, the President of the Basic Court shall order the convicted person to deliver such proof within eight days, with a warning that the application shall otherwise be rejected.

### *Passing of a Decision on Application*

#### Article 63

The President of the Basic Court shall be obliged to pass a decision in respect of an application for staying of the enforcement of a custodial sentence within three days from the receipt of the application.

Untimely applications, applications submitted by unauthorized persons and applications to which no proof is enclosed in a timely manner shall be rejected by the President of the Basic Court.

### *Appeal against the Decision Passed in the First Instance*

#### Article 64

The convicted person may appeal against the decision passed in the first instance with the President of the Higher Court of relevant jurisdiction.

The appeal shall be submitted within three days from the receipt of the decision.

The President of the Higher Court shall be obliged to decide on the appeal within three days from the receipt thereof.

A decision whereby a decision on staying is made shall be delivered to the penitentiary institution without delay.

### *Suspensive Effect of an Application*

#### Article 65

An appeal for staying of enforcement of a custodial sentence shall stay the enforcement of a custodial sentence until the decision on application becomes final.

The President of the Basic Court of relevant jurisdiction who determines on the occasion of rejection for an application submitted for the second time that the right to appeal has been abused shall decide that the appeal shall not have the suspensive effect on the enforcement of the custodial sentence.

## *Obligation to Submit Reports*

### Article 66

A convicted person for whom the enforcement of a custodial sentence has been stayed due a severe acute disease shall be obliged to, once in three months, and if requested so by a court of relevant jurisdiction more often, submit to the court a report on his/her medical condition provided by the institution in which medical treatment is provided to him/her.

### *Revocation and Suspension of Staying of Enforcement of a Custodial Sentence*

#### Article 67

The President of the Basic Court of relevant jurisdiction shall revoke the staying of enforcement of a custodial sentence where it is subsequently determined that the reasons due to which the staying has been approved have never existed or have ceased to exist or where the convicted person uses the stay contrary to the purpose for which it has been approved.

If in the cases referred to in Article 59, paragraph 1, item 2) of this Law, a new-born infant or a child dies, the staying shall be suspended upon the expiry of six months from such date.

### *Appeal against a Decision on Recall and Suspension of Staying of Enforcement of a Custodial Sentence*

#### Article 68

The convicted person shall be entitled to appeal against a decision on recall or suspension of the staying of enforcement of a custodial sentence under the same conditions as against a decision whereby a decision on the appeal for staying has been decided upon.

The appeal shall have suspensive effect on enforcement of the decision.

## **2. Staying of Enforcement of a Custodial Sentence due to Extraordinary Legal Remedies**

### Article 69

The court that decides on the request to repeat the criminal proceedings filed for the benefit of the convicted person may stay the enforcement of a custodial sentence even before the finality of the decision on permission to repeat the proceeding.

## **3. Staying of Enforcement of a Custodial Sentence at the Request of a Public Prosecutor**

### Article 70

The court of relevant jurisdiction shall in all cases permit staying of enforcement of a custodial sentence at the request of a competent Public Prosecutor until the passing of a decision on the legal remedy invoked.

The decision on staying of enforcement of a custodial sentence shall cease to apply if the Public Prosecutor fails to apply the legal remedy within 30 days from the date of receipt of the decision on staying.

## V. ADMISSION AND CATEGORISATION OF THE CONVICTED PERSONS IN PENITENTIARY INSTITUTIONS

### **Admission of the Convicted Persons**

#### Article 71

On the occasion of entering the penitentiary institution, the identity of the convicted person shall be determined first, medical check-up shall be performed and a medical record shall be opened, following which a registration number shall be determined for him/her which shall be determined according to the order of arrival of the convicted person to the penitentiary institution during a calendar year and which shall be used during the entire term of serving of the custodial sentence.

On the occasion of entering the penitentiary institution, the convicted person shall be informed of the rules and obligations imposed on him/her during the term of serving of the custodial sentence.

The text of this Law and of the regulation on house rules of the penitentiary institution shall be available to the convicted person during the entire term of serving of custodial sentence, in the language used in the penitentiary institution, in compliance with the law regulating the official use of language and script.

The convicted person who is illiterate, cannot read or is deaf-mute or cannot speak the language shall be informed of the rules and obligations orally or with the assistance of an interpreter, i.e. translator.

The penitentiary institution shall be obliged to enable the convicted person to get in touch with his/her family or the person designated by him/her immediately upon receipt therein.

If the convicted person has underage children or a person of whom he/she only takes care, the penitentiary institution shall inform the competent guardianship authority thereof.

### **Taking Photographs of, Measuring and Making Records of Special Signs**

#### Article 72

The convicted person shall be photographed, the prints of the papillary lines from his/her fingers shall be taken, his/her body mass and height shall be measured and a record of his/her personal description, individual marks, tattoos and other personal characteristics shall be made.

### **Handling of Personal Possessions of the Convicted Persons**

#### Article 73

The personal possessions of the convicted person, which the convicted person is not allowed to have on him/her according to the regulation on house rules of the penitentiary institution, shall be deposited or handed over, i.e. delivered at the expense of the convicted person to the person designated by him/her, of which a receipt shall be issued. Perishable things shall be destroyed, of which a record shall be made, a copy of which shall be handed over to the convicted person.

The objects that the convicted person may keep with him/her shall be regulated by the regulation governing the house rules of the penitentiary institution.

### **Categorisation and Subsequent Categorisation of the Convicted Persons**

#### Article 74

Following the receipt in the penitentiary institution, the convicted person shall be referred to the admission ward, where he/she can be detained for 30 days at the maximum.

In the admission ward, the personality of the convicted person shall be assessed, the risk level, capacity to change and individual needs shall be established with the aim of determining the individualized sentence program and his/her classification in the closed, semi-open or open ward, in compliance with the regulation of the Minister in charge of judiciary regulating the treatment, sentence program, categorisation and subsequent categorisation of the convicted persons.

Categorisation of a convicted person shall be performed on the basis of the assessed risk level, type of the criminal offence, duration of the sanction imposed, health condition, attitude of the convicted person to the criminal offence, form of guilt, previous convictions and other criteria determined by the regulation of the Minister in charge of judiciary that is regulating the treatment, sentence program, categorisation and subsequent categorisation of the convicted persons.

During the enforcement of the custodial sentence, depending on the degree of realisation of the sentence program, the sentence program can be modified and the convicted person can subsequently be categorised to a group with a higher or lower degree of special rights and privileges.

A convicted person shall be subsequently categorized to a group with a higher degree of special rights and privileges when he/she realizes the sentence program, the individual objectives or when a lower risk level is subsequently determined for him/her.

A convicted person shall be subsequently categorized to a group with a lower degree of special rights and privileges on the basis of an imposed disciplinary sanction for a graver disciplinary offence or a subsequently determined increased risk level.

A convicted person may be subsequently categorized to a group with a lower degree of special rights and privilege on the basis of an imposed disciplinary sanction for a minor disciplinary offence, initiating of a new criminal proceedings or a newly imposed custodial sentence.

### **Decision on the Sentence Program, Categorisation and Subsequent Categorisation**

#### Article 75

The decision on the sentence program and subsequent categorisation shall be passed by the manager of the penitentiary institution at a duly reasoned proposal of an expert team, which shall be based on the assessment of fulfilment of conditions prescribed by the regulation of the Minister in charge of judiciary governing the treatment, sentence program, categorisation and subsequent categorisation of the convicted persons.

The expert team shall comprise of the representatives of services in the penitentiary institution. In the penitentiary institutions in which there are no services for treatment and health protection, the members of the expert team shall be the employees of adequate professions that shall assess the risk level and the health condition of the convicted person.

The decision on the sentence program and the decision on subsequent categorisation shall be delivered to the convicted person within three days from the date of decision passing at the latest.

The convicted person shall have the right to appeal against the decision on subsequent categorisation with the Director of the Administration, within three days from the date of receipt of the decision. The appeal shall not have the suspensive effect on the enforcement.

The convicted person shall have the right to file an application for court protection against the decision of the Director of the Administration upon the appeal against the decision on subsequent categorisation, with the enforcement judge.

The Minister in charge of judiciary shall pass the regulation governing the treatment, sentence program, categorisation and subsequent categorisation of the convicted persons.

## VI. POSITION OF THE CONVICTED PERSONS

### 1. Rights of the Convicted Person

#### *Right to Humane Treatment*

##### Article 76

Everyone must respect the dignity of the convicted person.

No one may jeopardize the physical and mental health of the convicted person.

#### *Accommodation*

##### Article 77

Convicted persons shall have the right to accommodation that is in line with the modern hygienic conditions and local climatic conditions.

Categorisation of the convicted person to the common rooms and dormitories shall be carried out upon careful assessment of all the circumstances and data recorded in the admission ward, in particular by taking into account the age, personal characteristics and affinities, as well as other characteristics on which the mutual influence and threat from mutual physical and psychological harming depend.

Convicted persons with disabilities shall have the right to accommodation that is suitable to the type and degree of their needs.

#### *Accommodation of Pregnant Women, Puerperae and Mothers*

##### Article 78

Pregnant women, puerperae and mothers who are nurturing children shall be accommodated separately from other convicted women.

#### *Rooms in which the Convicted Persons Live and Work*

##### Article 79

Rooms in which convicted persons live and work must be clean, dry, ventilated, heated and with sufficiently illuminated, both with the natural and with the artificial light that enables reading and work without interferences for the sight. Dormitory must be spacious enough so that there are at least eight cubic metres per each convicted person and four square metres of space is provided for each convicted person.

Rooms must have appropriate sanitary amenities and means for personal hygiene.

Each convicted person shall be entitled to a separate bed.

#### *Leisure Time of the Convicted Persons*

##### Article 80

The convicted persons shall have the right to spend at least two hours a day outside of the prison rooms in fresh air, in the free time.

The convicted persons whose age and physical abilities permit that shall have the right to organized physical activity in the free time, including the right to use the playing fields and equipment together with other convicted persons.

## *Hygiene in the Penitentiary Institution*

### Article 81

Convicted persons must maintain personal hygiene and hygiene of the clothes and rooms in which they stay.

The penitentiary institution shall be obliged to provide tools and means for the maintenance of hygiene.

Hygiene of the convicted persons and of the rooms in which they stay shall be regularly controlled in the penitentiary institutions.

### *Nutrition*

### Article 82

Convicted persons shall be entitled to diet suitable for sustaining their good health and vigour, to three meals a day the total energy content of which must not be lower than 12.500 joules.

Convicted persons who carry out hard work, sick persons, pregnant women and puerperae shall be entitled to diet determined by the medical doctor.

Nutrition shall be provided for the convicted persons by taking into account their religious beliefs and in accordance with the possibilities of the penitentiary institution.

A medical doctor or another expert person shall check, prior to the distribution of meals, the quality of food and shall enter their finding in the relevant logbook.

### *Drinking Water*

### Article 83

Drinking water must be available to the convicted persons at all times.

Safety of food and water in the penitentiary institutions shall be monitored regularly.

The regulation governing nutrition of the convicted persons shall be passed by the Minister in charge of judiciary.

### *Clothes, Underwear and Footwear*

### Article 84

Convicted persons shall be entitled to underwear, clothes and footwear free of charge which shall be suited to the local climatic conditions.

If required so based on the work that he/she carries out, the convicted person shall be entitled to special work clothes, footwear and equipment.

The regulation governing clothes, footwear, underwear and bedding for the convicted persons shall be passed by the Minister in charge of judiciary.

### *Appearance of Clothes and Wearing Own Clothes*

### Article 85

Clothes for the convicted persons must not appear degrading or humiliating.

In the penitentiary institutions and wards of the open and semi-open types, the convicted persons shall be entitled to wear their own clothes and footwear.

## *Correspondence*

### Article 86

Convicted persons shall be entitled to send submissions to competent authorities.

Foreign nationals may address a diplomatic and consular representative of the country of his/her nationality, i.e. of the state which takes charge of the protection of his/her interests by means of a submission, and the convicted persons whose interests are not protected by any state may address a submission to the competent authorities of the Republic of Serbia and to the competent international organisations.

The penitentiary institution shall issue a confirmation of receipt to the convicted person for the letter which shall include the name of the sender, the date and the reference number under which the letter is registered.

The convicted persons shall receive and send the submissions through the penitentiary institution, at his/her own cost.

The manager of the penitentiary institution may approve sending of submissions at the expense of the penitentiary institution at the application of a convicted person who has no monetary means for that.

## *Limitation of Right to Correspondence*

### Article 87

Convicted persons shall have unlimited right to correspondence at their own expense.

In a penitentiary institution of the closed type and closed type with special security or in a closed ward of a penitentiary institution, upon the proposal of the manager of the penitentiary institution or the Director of the Administration, the enforcement judge having competence according to the seat of the penitentiary institution may pass a decision on supervision of the texts of the letters if by doing that contribution shall be made to the detection or prevention of new criminal offences. For the same reasons, the enforcement judge may deny correspondence.

The decision referred to in paragraph 2 of this Article shall be reviewed once every two months.

The convicted person shall be entitled to appeal against the decision of the court referred to in paragraph 2 of this Article, within three days to the court council. The appeal shall not have the suspensive effect on the enforcement of the decision.

In case of any suspicion that the written correspondence is used for sending and receiving unpermitted objects, the letter addressed to the convicted person, as well as the letter addressed by him/her shall be opened in his/her presence and inspected. Any unpermitted objects shall be confiscated.

## *Telephone Conversations*

### Article 88

The convicted person shall be entitled to telephone conversations in compliance with the provisions of the regulation governing the house rules of the penitentiary institution, at his/her own expense.

Provisions of Article 87, paragraphs 2 through 4 of this Law shall apply *mutatis mutandis* to the surveillance of telephone conversations as well.

## *Legal Assistance*

### Article 89

The convicted person shall be entitled to legal assistance relating to the enforcement of the custodial sentence, and the penitentiary institution shall be obliged to provide such assistance to him/her.

The penitentiary institution shall instruct the convicted person about the method for obtaining other forms of legal assistance.

## *Visits*

### Article 90

The convicted person shall have the right to visits by a spouse, children, parents, adopted children, adoptive parents and other lineal or collateral relatives up to the fourth degree of consanguinity or relatives by marriage up to the fourth degree of consanguinity, as well as of the foster parents, foster children and guardians once every two months.

The manager of the penitentiary institution may approve visits to the convicted person by other persons as well.

## *Visits by a Defence Attorney or Attorney-In-Fact*

### Article 91

The convicted person shall have the right to be visited by the defence attorney or an attorney in fact representing him/her, or the one whom he/she has invited for granting powers of attorney on representation.

## *Visits to a Foreign National*

### Article 92

A foreign national shall additionally have the right to a visit by the diplomatic and consular representative of the country of his/her nationality, i.e. of the country that is protection his/her interests, and the convicted person whose interests are not protected by any state shall have the right to a visit by the competent authorities and organisations of the Republic of Serbia and the competent international organisations.

The convicted person shall provide a written consent to the visit referred to in paragraph 1 of this Article.

The diplomatic and consular representative of the foreign country and the representative of the competent international organisation shall inform the penitentiary institution in writing of the date and time of the visit.

## *Duration of Visit*

### Article 93

The minimum duration of a visit shall be one hour.

The time, duration, method of visiting and appearance of the room for visits shall be regulated by the regulation on the house rules of the penitentiary institution.

## *Visits in a Separate Room*

### Article 94

The convicted person shall have the right to spend three hours once in two months with the spouse, children or another person close to him/her in special rooms of the penitentiary institution.



The method of realisation of rights of the person referred to in paragraph 1 of this Article, the appearance of the special room and determining of the circle of persons close to the convicted persons shall be regulated by the regulation on the house rules of the penitentiary institution.

#### *Restriction of Rights to Stay in a Special Room*

##### Article 95

During the term of the disciplinary measure of referral to solitary confinement, the convicted person shall not have the right to stay in the special room.

#### *Receipt of Packages*

##### Article 96

The convicted person shall have the right to receive packages two times a month.

Prior to handing over, the packages shall be inspected in the presence of the convicted person.

The mass and the permitted contents of the package shall be regulated by the regulation on the house rules of the penitentiary institution.

#### *Receipt of Money Remittances*

##### Article 97

The convicted person shall have the right to unlimited receipt and sending of money remittances.

The money that the convicted person receives shall be deposited as a monetary deposit.

The monthly amount of money that the convicted person may dispose of freely shall be the amount of average salary in the Republic of Serbia for the previous month according to the latest data of the authority in charge of statistics.

#### *Work and Rights Based on Work*

##### Article 98

Work of the convicted person shall be an integral part of the sentence program.

The purpose of work shall be for the convicted person to acquire, maintain and increase his/her capacities for work, work habits and professional knowledge, with a view to providing conditions for successful reintegration for him/her.

As part of the realisation of the sentence program, the convicted person shall be obliged to carry out work tasks and obligations.

#### *The Purpose of Work*

##### Article 99

The work of the convicted persons must be meaningful and must not be degrading.

Achieving of economic benefits from work of the convicted persons must not be detrimental for the realisation of the purpose of such work.

## *Type of Work*

### Article 100

The type of work shall be determined in accordance with the mental and physical abilities, professional qualifications, wishes expressed by the convicted person and in accordance with the possibilities of the penitentiary institution.

Mental and physical abilities of the convicted person for work shall be assessed by the expert team of the penitentiary institution.

### *Provision of Occupation for the Convicted Persons*

#### Article 101

The convicted person shall be provided with an occupation in the penitentiary institution or outside of the penitentiary institution, *which shall be decided upon by the manager of the penitentiary institution, at the proposal of the expert team*.\*

The regulation and the method of work in the penitentiary institution should be as similar as possible to the regulation and method of work outside of the penitentiary institution.

Special records shall be maintained on the occupation provided for the convicted persons.

The market remuneration for work of the convicted persons outside of the penitentiary institution shall belong to the penitentiary institution.

### *Work in the Workplace in Which the Convicted Person is Employed*

#### Article 102

Upon an application of the person who has been convicted to serve a custodial sentence not exceeding six months for the first time, the Director of the Administration may approve that during the term of the sanction he/she works in the workplace in which he/she has been employed at the time of receipt of order for enforcement of the sanction, where there are duly justified reasons for that and where the criminal offence for which he/she is convicted is not related to such job.

The convicted person shall have the right to appeal against the decision of the Director of the Administration referred to in paragraph 1 of this Article with the enforcement judge.

### *Work in a Workplace Outside of the Penitentiary Institution upon a Decision of the Enforcement Judge*\*

#### *Article 102a*\*

*The enforcement judge may, at a proposal of the manager of the penitentiary institution, approve that the convicted person who has been categorized to a semi-open or open ward of the penitentiary institution work in a workplace outside of the penitentiary institution, providing that there are conditions for that, and the criminal offence of which the person has been convicted is not related to such job.*\*

*The proposal referred to in paragraph 1 of this Article shall be submitted by the manager of the penitentiary institution, based on a previously acquired opinion of the expert team and with the consent from the convicted person.*\*

*Enclosed with the proposal of the manager of the penitentiary institution, a draft contract between the penitentiary institution and the employer laying down the conditions under*

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

*which the convicted person shall work in the workplace outside of the penitentiary institution shall be delivered to the enforcement judge as well.\**

*The convicted person may contact the manager of the penitentiary institution in relation to carrying out of jobs in workplaces outside of the penitentiary institution.\**

*In the procedure of referring of a convicted person to work outside of the penitentiary institution, the penitentiary institution shall cooperate with the National Employment Service and the employers.\**

*The convicted person who is working in a workplace outside of the penitentiary institution based on a decision of the enforcement judge shall be entitled to remuneration amounting to 70% of the remuneration for work paid by the employer to the penitentiary institution based on the contract referred to in paragraph 3 of this Article.\**

*No taxes or contributions shall be paid on remuneration for work.\**

*The enforcement judge may revoke the decision whereby he/she has approved that the convicted person work in a workplace outside of the penitentiary institution if the convicted person abuses the right to work outside of the penitentiary institution or where the employer has terminated the employment contract.\**

#### *Working Hours of the Convicted Persons*

##### *Article 103*

Working hours of a convicted person may be up to 40 hours a week, and by way of exception even longer, under conditions specified by the law.

The convicted person who is attending instruction of the general or vocational education shall work proportionately shorter working hours.

A convicted person may be occupied for two hours a day at the most outside of the working hours on maintaining hygiene and other daily chores in the penitentiary institution.

#### *Calculation in the Years of Service*

##### *Article 104*

The work of the convicted person shall not be calculated in the years of insurance service.

Where in compliance with the regulations on the conditions for professional qualification the time spent at work is recognized for acquiring of a professional qualification, the time spent on the same type of work during serving of the custodial sentence shall also be recognized for such qualification.

#### *Remuneration for Work*

##### *Article 105*

The convicted person shall be entitled to remuneration for work, which shall be paid once a month.

The remuneration for work shall amount to at least 20% of the lowest price of work in the Republic of Serbia, where the work longer than the full working hours shall be increased by 50%.

No taxes or contributions shall be paid on the remuneration for work.

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

### *Reward for Work*

#### Article 106

The manager of the penitentiary institution may provide a monetary reward to the convicted person for the successes at work.

The highest amount of remuneration and reward for work shall be determined by the Director of the Administration.

### *Disposal of the Remuneration and Reward for Work*

#### Article 107

The convicted person may freely dispose of the remuneration and reward for work. A certain share of the remuneration and reward of the convicted person can be allocated for saving.

### *Occupational Protection*

#### Article 108

The convicted person shall enjoy protection at work in compliance with the regulations governing occupational protection.

A convicted person who is temporarily incapable of working through no fault of his/her shall be entitled to remuneration in compliance with the regulations governing health care insurance.

The penitentiary institution shall pay for the bare necessities of the convicted person who is not working through no fault of his/her and has no own means.

### *Vacations*

#### Article 109

The convicted persons shall be entitled to daily, weekly and annual rest, in compliance with the law regulating the rights arising from employment.

The annual vacation shall be used in special rooms of the penitentiary institution.

During the annual vacation, the convicted person shall receive remuneration for work as if he/she was working, within the meaning of this Law.

### *Absence from Work by a Convicted Woman*

#### Article 110

A convicted woman shall be entitled to absence from work due to pregnancy, childbirth and maternity, in compliance with the law regulating the rights arising from employment.

### *Intellectual Property*

#### Article 111

The rights relating to the works in the field of intellectual property created during serving of the custodial sentence shall be the rights of the convicted person in compliance with the law governing the rights to intellectual property.

### *Bylaw on the Work of Convicted Persons*

#### Article 112

The Minister in charge of the judiciary shall pass the regulation governing work of convicted persons.

## *Health Protection*

### Article 113

The convicted person shall be entitled to health protection in compliance with the law regulating health protection and the provisions of this Law.

Medicines from the positive list shall be provided for the convicted persons.

The convicted person to whom adequate health protection cannot be provided in the penitentiary institution shall be, at the proposal of the medical doctor, referred to the Special Prison Hospital or another medical institution and a pregnant woman to a maternity ward to give the childbirth.

The time period spent in medical treatment shall be calculated in the term of the custodial sentence.

## *Medical Treatment of the Convicted Persons*

### Article 114

Medical treatment of the convicted persons shall be carried out with his/her consent.

Forced feeding of the convicted person shall not be permitted.

If the convicted person, by the refusal of treatment or food, seriously jeopardizes his/her own health or life, other medical measures prescribed by the medical doctor shall be applied.

Medical check-ups of the convicted persons shall be carried out in the presence of medical worker only, unless where the medical worker requests otherwise.

A convicted person shall be entitled to be informed of the findings of his/her health condition and of the contents of his/her medical records, except in the cases envisaged in the regulations governing health protection. The convicted person shall be entitled to make photocopies of his/her own medical documentation at his/her own expense.

Upon written consent of the convicted person, the penitentiary institution may request medical documentation from the medical institution in which the convicted person received treatment prior to the admission for the enforcement of the sanction.

The convicted person must be enabled to use the services of a dentist.

A special psychoactive substances' rehabilitation ward can be established in the penitentiary institution.

The Minister in charge of judiciary shall pass the regulation governing the operation of the psychoactive substances' rehabilitation ward and the implementation of psychoactive substances' rehabilitation program.

## *Obligations of Medical Doctors*

### Article 115

The medical doctor in the penitentiary institution shall be obliged to:

1) perform a medical check-up on each convicted person immediately after the admission in the penitentiary institution, following the return to the penitentiary institution from a temporary leave and prior to the release from the penitentiary institution;

2) on the occasion of the admission to the penitentiary institution and when necessary, determine whether the convicted person is physically or mentally ill and assess his/her ability to work;

3) immediately perform a medical check-up of the convicted person that complains of being sick or when there are signs that he/she is ill;

4) perform medical check-ups of the convicted person that is ill or that refuses food or water every day;

5) control the accommodation, food, hygiene, sanitary and other conditions on which the health of the convicted persons depends;

6) maintain special records of injuries sustained by the convicted persons and inform the manager of the penitentiary institution of any sign or indication of application of violence against a convicted person. The medical doctor shall be obliged to include in the report on determined injuries the statement of the convicted person on the manner in which the injury originated, as well as to present his/her own opinion on the connection between the statement of the convicted person and the injuries inflicted;

7) supervise the work of the pharmacy and medical staff that is recording, issuing and administering the therapy prescribed for the convicted person.

#### *Notification of the Manager of the Penitentiary Institution*

##### Article 116

In the written form and to the manager of the penitentiary institution, the medical doctor in the penitentiary institution shall be obliged to:

1) submit periodical reports on the medical condition for the convicted persons;

2) submit a report whenever he/she determines that the physical or mental condition of the convicted person is impaired or jeopardized due to an extension or method of serving of the custodial sentence and recommend measures to treat such person, including the option of a suspension of the custodial sentence;

3) provide findings and recommendations on the quantity and quality of food for the convicted persons;

4) provide findings and recommendations on the improvement of hygiene in the penitentiary institution and among the convicted persons, on the condition of sanitary circumstances and devices, heating, lighting and ventilation in the rooms used by the convicted persons;

5) provide findings and recommendations related to the necessary physical activities for the convicted persons.

The manager of the penitentiary institution shall be obliged to, without delay, take the measures referred to in paragraph 1 of this Article as recommended by the medical doctor.

#### *Specialist Check-up*

##### Article 117

At a request of the convicted person, the manager of the penitentiary institution may approve to him/her a specialist check-up, where such check-up has not been determined by the medical doctor, upon prior obtaining the opinion of the medical doctor on the reasons for refusal.

The costs of the check-up referred to in paragraph 1 of this Article shall be borne by the convicted person, unless determined otherwise by the manager of the penitentiary institution.

### *Notification of Closely Related Persons*

#### Article 118

The penitentiary institution shall immediately notify the spouse, children, adopted children or a person with whom the convicted person has lived in an extra-marital or another long-term relationship until the he/she has left to serve the custodial sentence, and if the convicted person does not have them, his/her parents, adoptive parents, brothers, sisters or other relatives of any serious threat to the health or life of the convicted person or of his/her transfer to the hospital of the penitentiary institution or another health care institution.

### *Rights of Convicted Women with Children*

#### Article 119

A convicted woman with a child may keep the child until the end of the term of the custodial sentence, and by the second birthday of the child at the maximum, following which the parents of the child shall decide by mutual agreement whether the child will be entrusted for care to the father, other relatives or other persons.

When the parents fail to agree or where the agreement they reach is to the detriment of the child, the court of relevant jurisdiction according to the place of domicile, i.e. residence of the mother at the time of conviction shall decide on entrusting of the child.

### *Assistance by Professional Staff*

#### Article 120

Convicted women with children shall be entitled to assistance of professional staff of the penitentiary institution.

When lacking immediate mother's care, the child shall be provided with adequate accommodation in a special room of the penitentiary institution and professional care, which shall correspond to the standard for the child care institutions.

The delivery of a convicted woman, care and accommodation provided for her and care for the child in the penitentiary institution shall be free of charge.

### *Information*

#### Article 121

The convicted persons shall be entitled to acquire daily newspapers and periodicals at his/her own cost and to use other means of public information.

The convicted persons may read books from the library of the penitentiary institution and books that he/she acquires on his/her own.

### *Education*

#### Article 122

Convicted persons shall have the right to primary and secondary education, which shall be organized in the penitentiary institution in compliance with the regulations governing education.

The penitentiary institution shall additionally organize other aspects of education for the convicted persons.

### *Part-time Schooling*

#### Article 123

The manager of a penitentiary institution may approve attending of part-time schooling to a convicted person if the education program can be conformed to the security assessment.

The costs of the part-time schooling shall be borne by the convicted person.

### *By-law on Education of the Convicted Persons*

#### Article 124

It must not be observable from the document on educational degree attained that the convicted person acquired education during the term of serving of a custodial sentence.

The regulation governing education of the convicted persons shall be passed by mutual agreement by the Minister in charge of judiciary and the Minister in charge of education.

### *Religious Rights*

#### Article 125

A convicted person shall be entitled:

- 1) to a religious ceremony;
- 2) to possess and read religious literature;
- 3) to be visited by a priest or another religious official.

If there is a sufficient number of the convicted persons of the same religion, at their request, the manager of the penitentiary institution shall permit to a priest or another religious official of that religion to regularly visit them or to hold in the penitentiary institution regular service or instruction.

Convicted persons shall freely decide whether they shall attend a religious ceremony or visit a priest and/or another religious official.

A religious ceremony shall be carried out in a special, appropriate room of the penitentiary institution.

The time, duration and the manner of using of the religious rights shall be regulated by the regulation on house rules of the penitentiary institution.

### *Submissions, Complaints and Appeals*

#### Article 126

A convicted person may, for the purpose of exercising his/her rights, address the head or another authorized person from the relevant service of the penitentiary institution by means of a submission.

The person referred to in paragraph 1 of this Article shall be obliged to, within five days from handing over of the submission, respond in writing a literate and reasoned manner to the submission of the convicted person.

The convicted person shall be entitled to file a complaint with the manager of the penitentiary institution due to a breach of rights or other irregularities committed against him/her in the penitentiary institution.

The convicted person may file the complaint referred to in paragraph 3 of this Article within three months from the date of occurrence of the breach of right or another irregularity,



and, by way of exception, within six months if he/she has been objectively prevented from doing that.

A complaint that is in comprehensible shall be returned by the manager of the penitentiary institution to the convicted person to clarify the allegations. The time limit for the delivery of a clarification shall be 48 hours.

If the convicted person fails to deliver a clarification within the time limit left to him/her, the complaint shall be rejected.

If the complaint pertains to jeopardizing or injury to the body or health of the convicted person, the manager of the penitentiary institution shall order that the convicted person be immediately examined by a medical doctor and that the report be made thereof.

The manager of the penitentiary institution or the person duly authorized by him/her shall be obliged to examine the complaint of the convicted person and to pass a decision thereon within 15 days.

If it is determined that the allegations from the complaint are well founded, the manager or the person designated by him/her shall immediately order that the irregularities determined are removed.

If it is not possible to remove the irregularities, the manager shall prohibit its further repetition by means of an order.

A convicted person who does not receive a reply to the complaint or who is not satisfied with the decision passed shall be entitled to, within eight days from the decision receipt date, file an appeal with the Director of the Administration.

The Director of the Administration shall be obliged to decide upon the appeal within 30 days from the appeal receipt date.

#### *Complaints Filed with the Director of the Administration*

##### *Article 127*

If a convicted person considers that his/her right has been violated by the actions of the manager, he/she may file a complaint with the Director of the Administration.

If the Director of the Administration or a person duly authorized by him/her determines that the complaint is not filed due to the reason indicated in paragraph 1, the complaint shall be delivered to the competent authority and shall notify the convicted person thereof.

The Director of the Administration or a person duly authorized by him/her may examine the merits of the complaint and by direct inspection of the documentation of the penitentiary institution, interviewing the manager and staff of the penitentiary institution, interviewing the convicted person who has filed the complaint and other convicted persons, without the presence of staff of the penitentiary institution.

If it is determined that the complaint is justified, the Director of the Administration shall order that the breach of right of the convicted person is removed.

Where it is not possible to remove the irregularity, the Director of the Administration shall prohibit any further repetition thereof.

If he/she considers that the breach of the right of the convicted person has been made due to an action of the staff member, the Director of the Administration shall notify in writing the manager of the penitentiary institution and the person authorized to carry out supervision, and if he/she considers that the breach of right has been the result of an action by the manager, he/she shall notify the person authorized to carry out supervision.

## *Complaint with the Authorized Person*

### Article 128

The convicted person shall have the right to, without the presence of the persons employed with the penitentiary institution, complain to the person authorized to supervise the operation of the penitentiary institution.

## **2. Extended Rights and Privileges of the Convicted Persons**

### Article 129

The manager of the penitentiary institution may grant to a convicted person who behaves particularly well and tries hard and achieves progress against the sentence program:

- 1) extended right to receive packages;
- 2) right to an extended number of visits;
- 3) right to an extended circle of persons who may visit the convicted person (distant relatives, friends and others);
- 4) extended right to receive visits without supervision in the rooms for visits;
- 5) extended right to receive visits in special rooms;
- 6) extended right to receive visits outside of the penitentiary institution;
- 7) extended right to a more suitable accommodation.

The manager of the penitentiary institution may also, under the conditions referred to in paragraph 1 of this Article, grant the following privileges to a convicted person:

- 1) free pass into town;
- 2) a visit to the family members and relatives on weekend and holidays;
- 3) an incentive leave from the penitentiary institution up to seven days during a year;
- 4) the use of annual vacation outside of the penitentiary institution.

For some special duly justified reasons, the manager of the penitentiary institution may additionally grant to the convicted person an extraordinary pass or leave from the penitentiary institution for up to seven days.

The manager of the penitentiary institution shall pass the decision on granting of extended rights and privileges upon a duly reasoned proposal of the expert team, in compliance with the regulation governing the treatment, sentence program, categorisation and subsequent categorisation of the convicted persons.

In case that the convicted person ceases to fulfil the conditions referred to in paragraph 1 of this Article, the expert team of the penitentiary institution may propose to the manager to revoke some of the extended rights and privileges granted to him/her.

The decision on revocation of extended rights and privileges shall be passed by the manager of the penitentiary institution.

An appeal can be filed against the decision referred to in paragraph 6 of this Article with the Director of the Administration within three days from the decision receipt date. The appeal shall not stay the enforcement of the decision.

A convicted person may file an application for protection with the enforcement judge against the decision of the Director of the Administration upon the appeal against the revocation of extended rights and privileges.

### **3. Transfer of a Convicted Person**

#### Article 130

The Director of the Administration may, at the proposal of the manager of the penitentiary institution, transfer a convicted person from one penitentiary institution to another where that is justified for the implementation of the sentence program or for the maintenance of order and security in the penitentiary institution.

The Director of the Administration may, for the security reasons, transfer a convicted person *ex officio*.

The convicted person shall have the right to appeal with the enforcement judge against the decision of the Director of the Administration determining the transfer.

#### *Contacting the Family Following a Transfer*

#### Article 131

The penitentiary institution to which the convicted person is transferred shall be obliged to, immediately after the transfer, enable the convicted person to get in touch with the family or a person determined by him/her, at the expense of the penitentiary institution.

### **4. Suspension of the Enforcement of Custodial Sentences**

#### *Suspension of Enforcement of a Sanction Based on a Decision of the Director of the Administration*

#### Article 132

Upon an application by the convicted person or a proposal by the manager of the penitentiary institution, the Director of the Administration may approve a suspension of the enforcement of a custodial sentence in case of an occurrence of the reasons referred to in Article 59, paragraph 1 of this Law due to which the enforcement thereof can be stayed.

Filing of an appeal with the enforcement judge shall be permitted against the decision of the Director of the Administration referred to in paragraph 1 of this Article.

#### *Suspension due to Justification of a Request for Staying of Enforcement of a Sentence*

#### Article 133

When a convicted person is referred to a penitentiary institution and has present himself/herself for the enforcement of a custodial sentence prior to the finality of the decision on and for staying of enforcement of the sentence, and where it is subsequently determined that the request has been justified, the enforcement of the custodial sentence shall be suspended by means of a decision of the Director of the Administration, in compliance with the court decision on staying of enforcement of the sentence.

In the case referred to in paragraph 1 of this Article, the time of the custodial sentence served shall not be calculated in the duration of the suspension.

#### *Suspension of the Enforcement of the Custodial Sentence due to an Extraordinary Legal Remedy*

#### Article 134

The court that is deciding upon a request for repetition of a criminal proceedings filed for the benefit of a convicted person may suspend the enforcement of the custodial sentence even before the finality of the decision on permission to repeat the proceedings.

## *Suspension of the Enforcement of a Sentence at the Request of the Public Prosecutor*

### Article 135

The enforcement of a custodial sentence at the request of the competent Public Prosecutor shall be suspended and shall last until the passing of the decision on legal remedy.

The decision on suspension referred to in paragraph 1 of this Article shall be passed by the court having competence to decide on the legal remedy.

If the Public Prosecutor fails to submit the legal remedy within 30 days from the date of receipt of the decision on suspension of enforcement of the custodial sentence, the court having competence for the enforcement of the sentence shall without delay remand the convicted person to serve the remaining part of the sentence.

The Public Prosecutor shall be obliged to notify the court and the penitentiary institution of the submitted legal remedy, i.e. that the legal remedy shall not be submitted.

### *Revocation of the Suspension of Enforcement of a Custodial Sentence and Delivery of the Convicted Person for Further Enforcement of the Sentence*

### Article 136

The director of the administration shall recall the suspension of enforcement of a custodial sentence if it is subsequently determined that the reasons due to which the suspension has been approved have never existed or have ceased to exist or where the convicted person uses such suspension contrary to the purpose for which it has been approved.

If the convicted person fails to present himself/herself following the expiry or revocation of the suspension of the enforcement of a sentence in the penitentiary institution, the penitentiary institution shall immediately notify the police of that, which shall bring the convicted person in for further enforcement of the sentence.

### *Effects of a Suspension of Enforcement of a Custodial Sentence*

### Article 137

The time period of a suspension of enforcement of a custodial sentence shall not be calculated in the sentence term served.

During the suspension of enforcement of a sentence, the convicted person shall not have the rights stipulated by this Law.

### *Mutatis Mutandis Application of the Provisions on Staying of Enforcement of a Custodial Sentence*

### Article 138

Provisions of this Law regulating staying of enforcement of a custodial sentence shall apply *mutatis mutandis* to the suspension of enforcement of a custodial sentence.

## **5. Death of a Convicted Person**

### Article 139

In case of death of a convicted person, the Police and the Public Prosecutor shall be notified immediately, and then his/her spouse, children and adopted children, and if the convicted person does not have them – his/her parents, adoptive parent, brother, sister, distant relatives or a person designated by him/her.

The court that has passed the first instance decision, the court competent for the enforcement and the registrar shall also be notified of the death of a convicted person.

## *Surrendering of Remains*

### Article 140

The remains of the convicted person and his/her personal belongings shall be surrendered to the family of the convicted person or to the person designated by him/her.

If the convicted person has no family or if the family members, i.e. person designated by him/her does not accept the remains, the remains of the convicted person shall be buried at the expense of the penitentiary institution.

## VII. MEASURES AIMED AT MAINTAINING ORDER AND SECURITY

### **1. General Provisions**

#### Article 141

During the enforcement of a custodial sentence, the convicted person shall be obliged to behave in compliance with the law and regulations passed on the basis of the law, as well as to comply with the orders of the officials, except where compliance with an order would be illegal.

With the aim of maintaining order and security in the penitentiary institution, only the measures for maintaining order and security which are laid down by this Law and regulations passed based on this Law and only to the extent necessary can be applied vis-à-vis a convicted person.

In application of measures for maintenance of order and security, no stricter measure than the one strictly necessary can be applied, bearing in mind the circumstances under which it is applied and the contents of the measure.

The measures for maintaining order and security shall be the coercion measures and the special measures.

### **2. Coercion Measures**

#### *Conditions for Application of Coercion Measures*

#### Article 142

Coercion measures can be applied vis-à-vis a convicted person only when it is necessary to prevent:

- 1) the escape of the convicted person;
- 2) a physical attack of another person;
- 3) inflicting injuries to another person;
- 4) self-inflicted injuries;
- 5) causing significant damage to property;
- 6) active and passive resistance of a convicted person.

Active resistance shall be considered to include each opposition by the convicted person to lawful official measures, actions and orders of an official or authorized person which is performed by covering or by holding by the face or by an object, by snatching, by making a prospect of an attack by the person or by taking some other similar action.

Passive resistance shall be considered to include each opposition by the convicted person to lawful official measures, actions and orders of an official or authorized person which is performed by ignoring or by taking a kneeling, sitting, lying or some other similar position.

The coercion measure can also be applied vis-à-vis a person who is illegally liberating a convicted person or who is illegally entering in the rooms of a penitentiary institution. Such person shall be detained until the arrival of the authorized persons with the Police.

#### *Types of Coercion Measures*

##### Article 143

The coercion measures shall be:

- 1) the use of physical force;
- 2) tying;
- 3) separation;
- 4) the use of rubber baton;
- 5) the use of water sprays;
- 6) the use of chemical means;
- 7) the use of firearms.

On the occasion of application of a coercion measure, only the measure that is jeopardizing the least the life and health of the person against which it is used, through which the resistance shall be successfully overcome and which is proportionate to the threatening danger shall be used.

#### *Application of Coercion Measures and Medical Check-Ups*

##### Article 144

The person vis-à-vis the measure is about to be applied shall be orally and clearly warned of the intention to apply a coercion measure, except where it is a case of a simultaneous or an imminent unlawful attack.

The use of water hoses and chemical means can be ordered by the manager of the penitentiary institution only.

Immediately following the application of a coercion measure, except for the measure comprising of tying, a medical check-up of the convicted person vis-à-vis whom the measure has been applied shall be mandatory. The check-up shall be repeated in the period between the twelfth and twenty-fourth hour from the application of the measure.

A written report of the security service, the medical documentation and the reports on completed medical check-ups shall be delivered to the manager without any delay. The report of the medical doctor shall also include the statements of the person vis-à-vis whom the coercion measure has been applied on the manner of inflicting injuries and the opinion of the medical doctor of the connection between the measure applied and the injuries inflicted. The manager of the penitentiary institution shall notify the Director of the Administration of the use of coercion measures and shall forward the reports within 24 hours from the time of application of the coercion measure.

## *Use of Firearms*

### Article 145

It shall be permitted to use firearms only where, by using other measures, the following cannot be achieved:

- 1) reject a simultaneous or an imminent unlawful attack whereby the life of a convicted person, an employee or another person found in the penitentiary institution is jeopardized;
- 2) prevent an escape of the convicted person from the penitentiary institution of the closed type or of the closed type with special security;
- 3) prevent, in the course of its implementation, an escape of the convicted person who is serving a custodial sentence of ten years or a stricter sanction or an escape of a person against whom detention has been imposed for a criminal offence for which a custodial sentence exceeding ten years can be imposed.

Firearms shall not be used if that would seriously endanger the life of another person.

Where an official action is taken under the immediate management of the manager of the penitentiary institution or a manager of the security service, firearms may be used upon their order only.

## *Duty to Notify of the Use of Firearms*

### Article 146

The manager of the penitentiary institution shall be obliged to immediately deliver a notice of the use of firearms and the record of the medical check-up of the convicted person to the Director of the Administration, competent Public Prosecutor and the enforcement judge.

## *Activities on Occasion of an Escape of a Convicted Person*

### Article 147

The member of the security service shall act without any delay in order to prevent the convicted person from escaping.

A member of the security service shall immediately inform of each attempted escape and successful escape of the convicted persons the manager of the penitentiary institution, who shall be obliged to notify the Director of the Administration thereof.

In case of an escape of a convicted person, the manager of the penitentiary institution shall notify the Police and the court that has referred him/her to enforcement of a custodial sentence, order issuing of an arrest warrant and take other necessary actions to deprive the convicted person on the run of liberty.

During the escape, enforcement of the custodial sentence shall not run for the convicted person.

## *Notification of the Police*

### Article 148

In case of a direct escape of a convicted person from the penitentiary institution or during the conveyance of the convicted person, a member of the security service shall be obliged to notify the Police without any delay and to secure the place which is suspected to be the hiding place of the convicted person.

### 3. Special Measures

#### *Conditions for Application and Types of Special Measures*

##### Article 149

By way of exception, special measures can be ordered vis-à-vis a convicted person for whom there is a threat of escape, violent behaviour, self-inflicted injury or jeopardizing order and security of another type, which may not be removed in any other manner.

The special measures shall be:

- 1) seizure and temporary retaining of objects the possession of which is otherwise permitted;
- 2) placement in a specially secured room without dangerous objects;
- 3) placement under intensified supervision;
- 4) solitary confinement;
- 5) testing on contagious diseases or psychoactive substances.

The application of a special measure shall be determined by the manager of the penitentiary institution or by a person duly authorized by him/her upon a written and reasoned proposal of the manager of an organisational unit of the penitentiary institution.

It shall be possible to apply multiple special measures vis-à-vis a convicted person simultaneously.

The enforcement of the measure referred to in paragraph 2 of this Article shall be suspended immediately if the reasons for its application have ceased to exist.

#### *Placement in a Specially Secured Room without Dangerous Objects*

##### Article 150

Placement in a specially secured room without dangerous objects can last continuously up to 48 hours at the maximum. This measure shall be imposed upon prior obtaining of an opinion of a medical doctor.

The competent enforcement judge shall be immediately notified of the placement in a specially secured room without dangerous objects.

Intensified supervision shall be applied in addition to the measure referred to in paragraph 1 of this Article.

#### *Placement under Intensified Supervision*

##### Article 151

Placement under intensified supervision can be applied only in the penitentiary institutions of the closed type or of the closed type with special security, i.e. in the closed wards of the penitentiary institutions.

Placement under intensified surveillance can be determined for a convicted person that disturbs the order or instigates others to disturb the order, and is thus presenting a threat to security in the penitentiary institution, or that is in some other manner a threat to security.

The decision referred to in paragraph 2 of this Article shall be passed by the manager of the penitentiary institution or by a person duly authorized by him/her, upon the proposal by the treatment service or the security service.



The convicted person shall have the right to appeal against the decision referred to in paragraph 2 of this Article with the enforcement judge, which shall not stay the enforcement of the decision.

The measure referred to in paragraph 1 of this Article shall be reviewed once every three months. The convicted person shall have the right to appeal with the enforcement judge against the decision on the extension of this measure.

### *Solitary Confinement*

#### Article 152

The manager of the penitentiary institution may, with a prior opinion of a medical doctor, impose the measure of solitary confinement of interrupted duration of up to three months at the maximum, by means of a decision against a convicted person who is repeatedly disturbing the order by his/her conduct, who seriously threatens the security and presents a serious danger for other convicted persons. This measure can be applied two times at the most during one calendar year.

Through solitary confinement, a convicted person shall be prevented from having contacts with another convicted person during the entire term of such measure.

The measure of solitary confinement shall be enforced in a room that complies with the requirements prescribed in Article 164, paragraph 1 of this Law.

During the enforcement of the measure of solitary confinement, stay outside of the room in fresh air must be ensured for the convicted person of the duration of one hour a day at the minimum.

During the enforcement of the measure of solitary confinement, work in the rooms in which the measure is enforced shall be enabled for the convicted person, and during the enforcement he/she may use the personal possessions, read the press and the books, write and receive correspondence, listen to the radio and follow television programmes.

The convicted person shall be entitled to appeal against the decision referred to in paragraph 1 of this Article with the enforcement judge.

The measure referred to in paragraph 1 shall be suspended by the manager of the penitentiary institution, upon a reasoned proposal of the expert service according to which the application of the measure of solitary confinement is to be discontinued.

### *Testing for Contagious Diseases or Psychoactive Substances*

#### Article 153

In the case of reasonable doubt of the existence of contagious diseases or taking narcotic drugs or psychoactive substances, it shall be possible to take samples of blood and urine from a convicted person to the extent necessary for testing in accordance with the rules of medical profession, i.e. to use an appropriate test.

The consent of the convicted person shall be required for testing for the HIV virus and hepatitis C virus.

### *Other Provisions on Special Measures*

#### Article 154

Placement in a specially secured room without dangerous objects, placement under intensified supervision, solitary confinement and testing on contagious diseases or psychoactive substances shall be carried out under supervision of a medical doctor.

*Regulations Governing Maintenance of Order and Security*

Article 155

The regulation governing measures aimed at maintenance of peace and security shall be passed by the Minister in charge of judiciary.

By way of exception, Police can be included in maintenance of peace and security in penitentiary institutions, as well as on the occasion of conveying of persons deprived of liberty, in compliance with the special agreement between the Minister in charge of judiciary and the Minister in charge of internal affairs.

VIII. DISCIPLINARY OFFENCES, MEASURES AND PROCEDURE AND MATERIAL LIABILITY OF THE CONVICTED PERSONS

**1. Disciplinary Offences**

*Presumptions for Application of Disciplinary Measures*

Article 156

Disciplinary offences shall be graver and minor breaches of the rules of order and security, as well as breaches of other rules of behaviour code by a convicted person determined by this Law.

A convicted person who, during the enforcement of the custodial sentence, commits a criminal offence for which a fine or alternatively a custodial sentence up to one year is prescribed, shall be sanctioned for a disciplinary offence in compliance with the provisions of the Criminal Code.

A disciplinary measure must not be imposed more than once upon a convicted person for the same disciplinary offence action.

*Graver Disciplinary Offences*

Article 157

Graver disciplinary offences shall be:

- 1) escape or attempted escape from a penitentiary institution;
- 2) instigating a mutiny or an escape;
- 3) preparation of a mutiny or an escape;
- 4) unauthorized leaving of a penitentiary institution;
- 5) violence against another person, physical or psychological harassment of another person;
- 6) manufacturing, possession or use of a dangerous object or a means for remote communication;
- 7) manufacturing or bringing into a penitentiary institution a means suitable for attack, escape or committing of a criminal offence;
- 8) prevention of access to any part of the penitentiary institution to an officer or a person duly authorized to be in the penitentiary institution;
- 9) jeopardizing, damaging or destruction of property of a larger scale;
- 10) refusal to carry out a legitimate order of an authorized person due to which a graver harmful consequence has occurred or could have occurred;
- 11) jeopardizing of another person's health committed on purpose or through gross negligence;
- 12) manufacturing, possession or consumption of narcotic drugs or psychoactive substances;
- 13) gross negligence of personal hygiene unless where such gross negligence of personal hygiene has occurred due to a physical or mental illness;
- 14) pursuit of chance games;

- 15) resistance to a medical check-up or measures aimed at prevention of threat of contagion;
- 16) instigation of a person deprived of liberty to commit a graver disciplinary offence;
- 17) neglecting an obligation to work that has caused or could have caused a graver harmful consequence;
- 18) training on a method of committing a criminal offence based on the personal or other person's experience;
- 19) a graver abuse of granted extended rights and privileges;
- 20) improper, violent or offensive behaviour towards an employee;
- 21) illegal taking possession of other persons' movable property;
- 22) repeating of at least three minor disciplinary offences over a period of three months;
- 23) refusal by a convicted person to undergo a test in case of reasonable doubt as to taking narcotic drugs or psychoactive substances.

### *Minor Disciplinary Offences*

#### Article 158

Minor disciplinary offence shall be:

- 1) jeopardizing and interfering with carrying out of work and leisure activities by another convicted person;
- 2) leaving the premises of the penitentiary institution or the work site and workshop of the penitentiary institution without permission;
- 3) carrying the tools and other material means out of the workplace;
- 4) mutual buying and selling clothes, footwear, medicines and other objects;
- 5) gambling;
- 6) preparation of meals, beverages or food outside of the space intended for such purposes;
- 7) putting tattoos on and body piercing of own or another person's body in the penitentiary institution;
- 8) jeopardizing and damaging of property;
- 9) impairing the appearance of the penitentiary institution;
- 10) unauthorized use of and entering in premises for official use;
- 11) minor abuse of the special rights granted;
- 12) possession of objects that a convicted person must not possess on them;
- 13) unruly, rude and aggressive behaviour that is obstructing life and work in the penitentiary institution;
- 14) unauthorized manufacturing of objects;
- 15) smoking outside of the spaces designated for that purpose;
- 16) neglecting of obligation to work;
- 17) refusal to carry out a legitimate order of an authorized person;
- 18) unauthorized use of objects;
- 19) enabling access to the penitentiary institution space to the unauthorized persons;

20) offensive behaviour towards another person on the grounds of any personal characteristic;

21) provision of false information on the facts of relevance for exercising of a right.

## **2. Disciplinary Measures**

### *Types of Disciplinary Measures*

#### Article 159

Disciplinary measures shall be imposed for disciplinary offences committed.

The disciplinary measures shall be:

- 1) the reprimand;
- 2) restriction or prohibition of the receipt of packages for up to three months;
- 3) withdrawal of granted extended rights and privileges referred to in Article 129, paragraphs 1 and 2 of this Law for up to three months;
- 4) restriction or prohibition of the disposal of money in the penitentiary institution for up to three months;
- 5) referral to solitary confinement during free time or during the entire day and night.

A reprimand shall be imposed when due to the nature of the disciplinary offence committed the convicted person should be warned only.

The disciplinary measures referred to in paragraph 2, items 2) through 4) of this Article shall be imposed as individual measures where there are no grounds or where it is not justifiable to impose the measure of referral to solitary confinement, and the reprimand may not achieve the purpose of the disciplinary measure.

The measure of referral to solitary confinement and the restriction or prohibition of disposal of money in the penitentiary institution can be imposed for the graver disciplinary offences only.

Withdrawal of granted extended rights and privileges relating to rights referred to in Article 129, paragraphs 1 and 2 of this Law and referring to solitary confinement can be imposed cumulatively.

### *Conditional Staying Of Enforcement of a Disciplinary Measure*

#### Article 160

It shall be possible to conditionally stay the enforcement of a disciplinary measure, except for the remand measure, for up to three months.

If the convicted person commits a new, pettier disciplinary offence during the period of time of the staying of a disciplinary measure, the disciplinary measure can be revoked.

The decision on revocation of a disciplinary measure shall be passed by the authority that has passed the decision on the disciplinary measure.

### *Concurrence of Disciplinary Offences*

#### Article 161

A single disciplinary measure shall be imposed for concurrence of disciplinary offences, based on an assessment of the gravity of the concurring offences and other circumstances that are impacting the imposition of the measure.

### *Enforcement of a Disciplinary Measure of Referral to Solitary Confinement*

#### Article 162

The disciplinary measure of referral to solitary confinement shall be imposed in exceptional cases, only for the graver disciplinary offences and it may not last longer than 15 days.

It shall be possible to impose the measure of referral to solitary confinement of up to 30 days for concurring disciplinary offences.

### *Substance of the Disciplinary Measure of Referral to Solitary Confinement*

#### Article 163

The disciplinary measure of referral to solitary confinement is exclusion of a convicted person from joint activities with other convicted persons during leisure time or during entire day and night.

*Immediately following the commencement of enforcement of a disciplinary measure of referral to solitary confinement, a medical check-up of the convicted person shall be mandatorily carried out, in order to medically determine his/her mental and physical condition.\**

*If it is determined by means of the medical check-up that further enforcement of the solitary confinement is impacting the health condition of the convicted person, the enforcement of the disciplinary measure of referral to solitary confinement shall be suspended. When the health-related reasons causing such suspension have ceased, the enforcement of the disciplinary measure of referral to solitary confinement shall be resumed.\**

### *Room in which the Disciplinary Measure of Referral to Solitary Confinement is Enforced*

#### Article 164

The room in which the disciplinary measure of referral to solitary confinement is enforced must have at least four square metres and ten cubic metres of space. The room must be well-ventilated, with daylight and lit by artificial lighting, heated in accordance with the climatic conditions, equipped with a bed and bedding, a table and a chair.

Unlimited access to drinking water and sanitary installations must be ensured for the convicted person.

During the enforcement of the disciplinary measure of referral to solitary confinement, the convicted person may read and write, and shall have the right to spend at least one hour a day outside of the room in fresh air.

### *Control of Enforcement of a Disciplinary Measure of Referral to Solitary Confinement*

#### Article 165

During the enforcement of a disciplinary measure of referral to solitary confinement, medical control of the convicted person shall be mandatory at least once during the day and the manager of the penitentiary institution and the educator shall be obliged to visit him/her at least once every seven days.

The findings and observations of the medical doctors and other authorized persons shall be entered in the book on enforcement of the disciplinary measure of referral to solitary confinement.

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

### *Restriction of Duration of the Disciplinary Measure of Referral to Solitary Confinement*

#### Article 166

The total duration of the stay of a convicted person in the room in which the disciplinary measure of referral to solitary confinement is enforced may not exceed six months during one calendar year.

### *Suspension and Interruption of Enforcement of the Disciplinary Measure of Referral to Solitary Confinement*

#### Article 167

The manager of the penitentiary institution shall suspend the enforcement of the disciplinary measure of referral to solitary confinement if he/she assesses that the purpose of the disciplinary measure has been achieved even before the expiry thereof.

The manager of the penitentiary institution shall mandatorily interrupt the enforcement of the disciplinary measure of referral to solitary confinement if according to the written opinion of the medical doctor further stay in the solitary confinement presents a threat to the health of the convicted person.

### **3. Disciplinary Proceedings**

#### *Competence for and Initiating of the Proceedings*

#### Article 168

Proceedings for graver disciplinary offences shall be led and the decisions shall be passed by a disciplinary commission, and for the pettier disciplinary offences by the manager of the penitentiary institution or a person designated by him/her, where such person, i.e. a member of the commission, may not be the person that has submitted the proposal to initiate the disciplinary proceeding.

A proposal to initiate a disciplinary proceeding shall be submitted by the manager of the organisational unit of the penitentiary institution or a person designated by him/her. In cases of the graver disciplinary offences, the proposal to initiate the procedure may also be submitted by the manager of the penitentiary institution or a person designated by him/her.

The proposal to initiate a disciplinary proceeding referred to in paragraph 2 of this Article shall be submitted within 48 hours from learning of the offence committed.

If the expiry of the time limit for submission of a proposal to initiate a disciplinary proceeding falls on a Saturday, Sunday or on a day of a public holiday, the same shall be submitted on the next business day.

The disciplinary commission with three members referred to in paragraph 1 of this Article shall be appointed by the Director of the Administration, at the proposal of the manager of the penitentiary institution. The president of the commission must be a graduate of law.

#### *Conditions for Separation of a Convicted Person*

#### Article 169

From the moment of learning of the commissioning of a graver disciplinary offence and during the course of the disciplinary proceeding, the manager of the penitentiary institution or the person authorized by him/her may decide that the convicted person be separated for security reasons from other convicted persons, for up to 48 hours. The time of separation shall be calculated in the disciplinary measure of referral to solitary confinement.

A convicted person with the treatment of an open or semi-open ward against whom a disciplinary proceeding is initiated for a graver disciplinary offence can be placed in a closed part of the penitentiary institution until the conclusion of the disciplinary proceeding.

Time spent in a closed part of the penitentiary institution shall not be calculated in the disciplinary measure of referral to solitary confinement.

#### *Evidence in Disciplinary Proceedings*

##### Article 170

A convicted person against whom a disciplinary proceeding is conducted shall mandatorily be heard, the statements that he/she makes shall be verified and other pieces of evidence shall be presented as well.

Records shall be made on the course of the disciplinary proceedings.

#### *Weighing up of Disciplinary Measure*

##### Article 171

When imposing a disciplinary measure, behaviour of the convicted person during the enforcement of custodial sentence and the effort he/she has put into his/her work shall be taken into account, and all other facts of relevance for proper weighing of the measure shall be taken into account as well.

#### *Statute of Limitation*

##### Article 172

A disciplinary measure may not be imposed and an imposed measure may not be enforced if more than one year has passed from the commission of the disciplinary offence.

#### *Right of a Convicted Person to Expert Legal Assistance*

##### Article 173

The convicted person against whom a disciplinary proceeding is conducted shall be entitled to expert legal assistance.

The convicted person must be notified in writing of the right referred to in paragraph 1 of this Article on the occasion of the delivery of the proposal to initiate a disciplinary proceeding.

#### *Decisions and Appeals in Disciplinary Proceedings*

##### Article 174

A disciplinary proceeding shall be concluded by a decision.

The convicted person may file an appeal against the decision with the enforcement judge who has the competence according to the seat of the penitentiary institution, within three days from the receipt date of the decision.

The enforcement judge shall pass a decision on the appeal within three days from the date of receipt of the appeal.

An appeal shall not have the suspensive effect on the enforcement of the decision.

#### *Entering of Disciplinary Measures in the Records*

##### Article 175

A disciplinary measure imposed by means of a final decision shall be entered in the records of disciplinary measures.

A disciplinary measure shall be deleted from the records of disciplinary measures providing that no other disciplinary measure is imposed against the convicted person within one year from the imposition of the disciplinary measure for petty offences, and within three years from the date of imposition of the disciplinary measure for graver disciplinary offences.

#### *Powers of the Minister in Charge Of Judiciary*

##### Article 176

The Minister in charge of judiciary shall pass the regulation governing the disciplinary proceedings, establishing of disciplinary liability and imposition of disciplinary measures.

*Provisions of the Criminal Code and of the Code of Criminal Proceeding shall apply mutatis mutandis to any issue not governed by the regulation referred to in paragraph 1 of this Article.\**

The penitentiary institution shall maintain the records on imposed disciplinary measures, which shall include: the name and surname of the convicted person, information on the disciplinary offence committed, information on disciplinary measure imposed and a note.

#### **4. Material Liability**

##### Article 177

A convicted person shall be obliged to compensate the damage that he/she has caused intentionally or through gross negligence to the penitentiary institution.

The first instance disciplinary authority shall decide on compensation for damage amounting up to RSD 15,000 and compensation for damage amount exceeding RSD 15,000 shall be realized in civil proceedings.

Compensation for damage decided upon by the first instance disciplinary authority of the penitentiary institution shall be collected directly from the funds that the convicted person can dispose of freely, and where that is insufficient, from the savings deposit of the convicted person as well.

#### **IX. RELEASE OF CONVICTED PERSONS FROM ENFORCEMENT OF PRISON SANCTIONS**

##### **Release due to Expiry of the Sanction**

##### Article 178

A convicted person shall be released from the penitentiary institution on the date of expiration of his/her sanction.

If the expiration of the sanction falls on Saturday, Sunday or public holiday, the convicted person shall be released on the last business day preceding these days.

The penitentiary institution shall be obliged to, within eight days from the release of the convicted person, notify the enforcement judge, the court that has referred him/her to enforcement of the sanction, as well as the Police thereof, for the purpose of records' keeping.

##### **General Provisions on the Release of Convicted Persons**

##### Article 179

Prior to the release, a medical doctor shall examine the convicted person and shall enter the finding in the medical record.

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.



The penitentiary institution shall place a severely ill person who has been released from enforcement of a custodial sentence and a released person who is incapable of travelling due to his/her illness, in the nearest adequate medical institution. The costs of treatment for the initial 30 days shall be borne by the penitentiary institution.

### **Release Form and Handing Over of Seized Objects and Money**

#### **Article 180**

On the occasion of release from the penitentiary institution, a release form shall be issued to the convicted person.

The release form shall, *inter alia*, include the date of release and the date by which the released person is to report to the Police.

The release form shall additionally serve to the released person as proof of identity until his/her arrival to the place of domicile, i.e. residence.

On the occasion of release, the belongings and objects that were taken into safe custody by the penitentiary institution for him/her shall be handed over to the convicted person, along with the savings and money that he/she has received during the enforcement of the custodial sentence and has not spent in the penitentiary institution.

On the occasion of release of the convicted person, the penitentiary institution shall provide underwear, clothes and footwear for him/her, if the convicted person cannot secure them.

A person shall be considered to be released when he/she has left the penitentiary institution.

### **Notification of Victims**

#### **Article 181**

In the cases where a person convicted of the criminal offences against life and body, against sexual freedom or against marriage and family is released from the enforcement of a custodial sentence, i.e. released conditionally, as well as in case of the escape from prison, the penitentiary institution shall notify the victim of the criminal offence thereof.

The penitentiary institution shall deliver the notification referred to in paragraph 1 of this Article to the victim if he/she has demanded that, and if the assessment of risk by the penitentiary institution is indicative of the need for preventive protection of the victim.

### **Transportation Costs**

#### **Article 182**

The costs of transportation for the released person to the place of domicile, i.e. residence, shall be borne by the penitentiary institution.

For a released foreign national, the costs of transportation to the border crossing shall be paid, unless where laid down otherwise by a special regulation.

### **Release due To Amnesty, Pardon and Conditional Release**

#### **Article 183**

In case that a convicted person is released from a penitentiary institution based on the law on amnesty, the penitentiary institution shall be obliged to release him/her within 24 hours

following the receipt of the decision on amnesty at the latest, unless where laid down otherwise by the law on amnesty.

In case that a convicted person is released from a penitentiary institution based on a decision on pardon, the penitentiary institution shall be obliged to release him/her on the same day upon the receipt of the decision on pardon, and within 24 hours at the latest.

In case that a convicted person is released from a penitentiary institution based on a final decision on conditional release, the penitentiary institution shall be obliged to release him/her on the same day upon the receipt of the decision, and within 24 hours at the latest.

### **Early Release**

#### Article 184

The Director of the Administration may release a convicted person from the enforcement of a custodial sentence early, six months prior to the expiry of the sentence at the maximum providing that he/she has served nine tenths of the sentence, owing to good conduct of the convicted person and the results achieved in the sentence program, at the proposal of the manager of the penitentiary institution.

The proposal referred to in paragraph 1 of this Article shall be submitted by the manager of the penitentiary institution, based on a previously acquired opinion of the expert team.

#### ***Early Release Based on a Decision of the Enforcement Judge\****

##### *Article 184a\**

*The enforcement judge may, upon a proposal by the manager of the penitentiary institution release a convicted person early from the enforcement of a custodial sentence 12 months prior to the expiry of the sentence at the maximum, providing that the convicted person has served one half of the custodial sentence, due to a severe illness, severe disability or old age, if further enforcement of the sanction would constitute inhumane treatment.\**

*The manager of the penitentiary institution shall submit the proposal referred to in paragraph 1 of this Article, based on a previously acquired opinion of the expert team.\**

*Enclosed with the proposal of the manager, medical documentation of the convicted person shall be delivered to the enforcement judge.\**

*In the decision making procedure, the enforcement judge may order an expert's opinion in order that the health condition of the convicted person is determined.\**

*The convicted person who has been released early from the enforcement of a custodial sentence due to severe illness or severe disability shall be obliged to deliver to the enforcement judge a report of medical doctor on his/her health condition every 60 days.\**

*The enforcement judge may revoke the decision whereby early release has been approved, if it is subsequently established that the reasons for the early release have not existed or have ceased to exist.\**

### **Preparatory Program for Release**

#### Article 185

The penitentiary institution shall be obliged to, prior to release of the convicted person from the enforcement of a custodial sentence, within the sentence program, determine a program of preparation for release and assistance following the release.

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

The preparation of the convicted person for release shall commence following the arrival to the penitentiary institution. Convicted persons shall be encouraged to actively participate in preparation for their release, and in particular to maintain the relations with the family, to establish and maintain contacts with institutions and persons dealing with the inclusion of the sentenced persons for the free life. The program for release shall be an integral part of the sentence program.

Based on the determined program for release, the convicted person shall be included in individual or group advisory work relating to his/her preparation for release one year at the earliest and three months at the latest prior to the release, depending on the duration of the sanction imposed.

In the procedure of preparation of a program for release, the treatment service shall additionally determine the needs of the convicted person following the enforcement of the sanction and shall cooperate with the probation service, as well as with the guardianship authority having competence according to the last place of domicile, i.e. residence of the convicted person.

### **Procedure for Providing Assistance and Admission**

#### Article 186

In the realisation of the provision of assistance and admission, the penitentiary institutions shall cooperate with the probation service, guardianship authority competent according to the place of last recorded domicile, i.e. last recorded residence of the convicted person prior to the referral to enforcement of custodial sentence, Police and relevant organisation or association.

The penitentiary institution shall be obliged to, prior to the release of the convicted person, notify the Police in the place of domicile, i.e. residence of the convicted person thereof, as well as the court that has imposed the custodial sentence.

The procedure for the provision of assistance and admission of the convicted person following the completed serving of the custodial sentence shall be regulated by a separate law.

#### Chapter Four

### ENFORCEMENT OF FINES

#### **Competence and Procedure for Enforcement of Fines**

#### Article 187

The court that has passed the judgement in the first instance proceeding shall be competent for the enforcement of fine.

#### **Time Limit for Payment of Fines**

#### Article 188

The time limit for payment of fine shall be determined in the judgement.

The time limit referred to in paragraph 1 of this Article may not be shorter than 15 days or longer than three months.

In duly justified cases, the court may allow the convicted person to pay the fine in instalments, where the time limit for complete payment may not exceed one year.

## **Replacement of Fines with Custodial Sentences**

### Article 189

If the convicted person fails to pay the fine within the determined time limit, the court shall replace the fine with a custodial sentence.

A fine shall be replaced with a custodial sentence by imposing one day of imprisonment for each individual thousand of dinars, where the custodial sentence may not last longer than six months. If the fine is imposed in an amount exceeding seven hundred thousand dinars, the custodial sentence may not exceed one year.

## **Proportionate Replacement of Fines**

### Article 190

If the convicted person pays only a portion of the fine, the court shall replace the balance proportionately with a custodial sentence.

If the convicted person pays the balance of the fine, the enforcement of the custodial sentence shall be suspended, on the basis of the court decision.

## **Replacement of Fines with Community Service**

### Article 191

Instead of a custodial sentence, an unpaid fine can be replaced with a sanction comprising of community service.

A fine shall be replaced with a community service by imposing eight hours of community service for each individual thousand of dinars, where the community service may not exceed three hundred and sixty hours.

## **Enforcement of Fines Following the Death of the Convicted Persons**

### Article 192

Fines shall not be enforced following the death of a convicted person.

## ***Mutatis Mutandis* Application**

### Article 193

Provisions of this Law regulating enforcement of fines imposed for criminal offences shall apply *mutatis mutandis* to the enforcement of fines imposed for commercial offences and misdemeanours, unless where determined otherwise by the law.

## Chapter Five

### ENFORCEMENT OF THE SANCTION OF CONFISCATION OF DRIVING LICENCE

### Article 194

With a view to enforcing the sanction of confiscation of the driving licence, the court that has decided in the first instance shall deliver the final decision on the imposed sanction of confiscation of the driving licence to the Police in the place of domicile, i.e. residence of the convicted person at the time when the decision whereby the imposed sanction has become final. The enforceable decision shall be entered in the penal records.

## Chapter Six

### ENFORCEMENT OF SECURITY MEASURES

#### I. COMPULSORY PSYCHIATRIC TREATMENT AND CUSTODY IN MEDICAL INSTITUTION

##### **Competence and Procedure for Enforcement of Measure of Compulsory Psychiatric Treatment and Confinement in a Medical Institution**

###### Article 195

Competent court that has imposed the measure in the first instance shall refer persons to enforcement of measure of compulsory psychiatric treatment and confinement in a medical institution.

The measure referred to in paragraph 1 of this Article shall be enforced in the Special Prison Hospital, and by way of exception in another medical institution.

Where the measure referred to in paragraph 1 of this Article is imposed with a custodial sentence, the person against which it is imposed shall be first referred to the enforcement of the security measure.

At the proposal of the Special Prison Hospital, i.e. another medical institution in which the measure referred to in paragraph 1 of this Article is enforced, the court may, during the term of the measure, based on a previously obtained opinion of the enforcement judge, decide that the person against whom the measure is enforced is to be transferred from one to another medical institution.

##### **Position of Persons against Whom the Measure of Compulsory Psychiatric Treatment and Confinement in a Medical Institution is Enforced**

###### Article 196

The measure of compulsory psychiatric treatment and confinement in a medical institution may include only the restrictions of movement and behaviours that are necessary for the purpose of treatment and confinement of the person on which this measure is imposed and to maintain order and discipline.

The person against which the security measure of compulsory psychiatric treatment and detention in a medical institution is enforced shall have the same rights and obligations as the person serving a custodial sentence, unless where the needs of the treatment require otherwise.

##### **Bringing in and Conveyance in a Medical Institution**

###### Article 197

If the person against whom the measure of compulsory psychiatric treatment and detention in a medical institution is imposed is at large and fails to appear in the institution for the execution of the measure, the court shall order that he/she be brought in or that an arrest warrant be issued. The order shall be carried out by the Police in the territory of jurisdiction of which the person is located. If such person is on remand, conveyance shall be carried out by the authorized persons of the penitentiary institution in which the remand measure is enforced.

Bringing in and conveyance of the person referred to in paragraph 1 of this Article shall be carried out under escort of a medical worker.

## **Duty to Notify the Court**

### Article 198

The medical institution, i.e. the ward to which the person is referred for medical treatment and confinement shall be obliged to, once a year at the minimum, notify the court that has imposed the measure of the health condition of the person against whom the measure is imposed.

## **Suspension or Replacement of the Measure**

### Article 199

At the request of the Special Prison Hospital or another medical institution in which the measure is executed, the court may, during the term of the measure, decide that the measure of compulsory psychiatric treatment and confinement in a psychiatric institution be suspended or may impose the measure of compulsory extramural psychiatric treatment.

When the treatment is completed, the medical institution referred to in paragraph 1 of this Article shall notify the court that has imposed the measure thereof.

In case of a person whose treatment is completed and whose term of the custodial sentence has not yet expired, the Police in the territory of which the medical institution is located, at the request of the court referred to in paragraph 1 of this Article, shall transfer the convicted person for the enforcement of custodial sentence, providing that the court has not ordered conditional release for him/her.

## **Expert Supervision of the Enforcement of Measure**

### Article 200

The expertise applied in work during the enforcement of the measure of compulsory psychiatric treatment and confinement in a medical institution shall be supervised by the Ministry in charge of health.

## **Assistance Following the Release from the Medical Institution**

### Article 201

Following the release from the medical institution, the guardianship authority that is competent according to the domicile, i.e. residence of the person at the time when the security measure imposed has become final shall assume to take care of the person on which a security measure has been enforced, and who has no family care available to him/her.

## II. COMPULSORY EXTRAMURAL PSYCHIATRIC TREATMENT

### **Competence and Procedure for Execution of Measure of Compulsory Extramural Psychiatric Treatment**

#### Article 202

The measure of compulsory extramural psychiatric treatment shall be carried out in the medical institution determined by the court that has imposed this measure.

The court that has imposed the measure referred to in paragraph 1 of this Article shall refer the person against whom the measure has been imposed to the medical institution within eight days from the date of finality of the decision whereby the measure is imposed.

The person against whom the measure of compulsory extramural psychiatric measure is imposed shall be obliged to present themselves for treatment in the medical institution within

the time limit set by the court and within 15 days from the delivery of the decision on referral to treatment at the latest.

The court shall deliver a transcript of the final court decision to the medical institution in which the measure is to be executed.

### **Obligation to Notify the Medical Institution**

#### Article 203

If the person referred to treatment fails to undergo treatment within the time limit determined by the court, leaves the treatment on their own will or despite the treatment becomes so dangerous for the surroundings that it is necessary to keep him/her in a psychiatric medical institution, the medical institution shall notify the court that had imposed the measure thereof.

### **Obligations of the Medical Institution**

#### Article 204

The medical institution shall be obliged to inform the court that has imposed the measure of the condition of health of the person admitted for treatment every six months at the minimum.

The medical institution shall be obliged to additionally notify the court of the completion of treatment.

## **III. COMPULSORY TREATMENT OF DRUG ADDICTS AND COMPULSORY TREATMENT OF ALCOHOLICS**

### **Competence and Procedure for Execution of Measure of Compulsory Treatment of Drug Addicts, I.E. Measure of Compulsory Treatment of Alcoholics**

#### Article 205

Referral of persons to the execution of a measure of compulsory treatment of a drug addict, i.e. measure of compulsory treatment of an alcoholic shall be carried out by the court of relevant jurisdiction which has imposed the measure in the first instance.

The person against whom the measure of compulsory treatment of a drug addict, i.e. the measure of compulsory treatment of an alcoholic with a custodial sentence has been imposed shall be referred to execution thereof in compliance with the regulation passed by the Minister in charge of judiciary referred to in Article 49, paragraph 1 of this Law.

The court shall notify the institution to which the person against whom the measure is imposed of the referral to the execution of the measures referred to in paragraph 1 of this Article.

If the person referred to in paragraph 1 of this Article fails to present himself/herself to the institution for treatment or leaves the initiated treatment on his/her own will, the institution shall immediately notify thereof the court of relevant jurisdiction which shall order that he/she be brought in, i.e. that an arrest warrant be issued.

### **Obligation to Notify the Court**

#### Article 206

The institution in which the measure of compulsory treatment of drug addicts, i.e. the measure of compulsory treatment of alcoholics is enforced shall notify at least once in six months the court of relevant jurisdiction of the enforcement thereof.

The institution referred to in paragraph 1 of this Article shall notify the court of the completion of the treatment.

### **Referring of a Convicted Person to the Enforcement of the Remaining Part of the Custodial Sentence**

#### Article 207

Following the executed measure of compulsory treatment of a drug addict, i.e. of the measure of compulsory treatment of an alcoholic, the person against whom such measure has been executed shall be referred to the enforcement of the remaining part of the custodial sentence.

#### IV. BAN ON PURSUIT OF AN OCCUPATION, A BUSINESS ACTIVITY AND A DUTY

### **Competence for the Enforcement of the Security Measure of a Ban on Pursuit an Occupation, a Business Activity and a Duty**

#### Article 208

The court that has imposed the security measure of a ban on pursuit of an occupation, a business activity and a duty in the first instance shall deliver the final decision to the authority, enterprise or organisation with which the person against whom the measure has been imposed is employed, to the authority competent to issue the licence or the permission for the pursuit of a specific occupation or self-employment, to the competent inspection authority, competent authority for maintenance of commercial registers and tax administration.

The final decision referred to in paragraph 1 of this Article shall additionally be delivered to the police in the place of domicile, i.e. residence of the person against whom this measure is applied in order to be entered in the penal records.

### **Procedure for Enforcement of Security Measure of Ban on Pursuit of an Occupation, a Business Activity and a Duty**

#### Article 209

When the pursuit of an occupation, a business activity and a duty is related to a permission of a competent authority, this measure shall be enforced by withdrawing the permission or by prohibiting the issuing thereof, for the period of time for which the measure is imposed.

The measure referred to in paragraph 1 of this Article shall be enforced by the competent inspection by taking the actions whereby the person against whom the measure is being applied shall be prevented from pursuing the specific occupation, business activity and duty.

The competent inspection shall notify the court that has imposed the measure in the first instance of the enforcement of the measure.

#### V. PROHIBITION TO OPERATE A MOTOR VEHICLE

### **Competence and Procedure for the Execution of the Measure of Prohibition to Operate a Motor Vehicle**

#### Article 210

The court that has imposed the measure of prohibition to operate a motor vehicle in the first instance shall deliver the final decision for enforcement to the Police in the place of domicile, i.e. residence of the person against whom the measure has been imposed, at the time when the decision whereby the measure is imposed has become final.

The measure referred to in paragraph 1 of this Article shall be enforced against the person holding a foreign driver's licence by the Police in the place where the criminal offence has been committed.



## **Notification of Organisational Unit of the Police That Has Issued the Driving Licence**

### **Article 211**

The organisational unit of the Police that is enforcing the measure of prohibition to operate a motor vehicle, and that has not issued the licence for operation of a motor vehicle, shall notify the organisational unit of the Police that has issued the driving licence of the enforcement of the measure.

## **VI. CONFISCATION OF OBJECTS**

### **Article 212**

The security measure of confiscation of objects shall be enforced by the court that has imposed such measure in the first instance.

Depending on the nature of confiscated objects, the court shall decide whether they shall be sold in accordance with the provisions of the law regulating enforcement and security, abandon to a state authority, institution or a charity organisation, destroy them or deal with them in compliance with special regulations.

Where mandatory destruction of confiscated objects is determined by the law, the court shall pass a decision on the method and authority, organisation, i.e. institution that shall carry out the destruction of the objects.

The means earned through the sale of objects shall constitute the income of the budget of the Republic of Serbia.

## **VII. EXPULSION OF ALIENS FROM THE COUNTRY**

### **Article 213**

The court that has imposed the measure of expulsion of aliens from the country in the first instance shall deliver the final decision for enforcement to the Police.

The measure referred to in paragraph 1 of this Article shall be enforced in accordance with the regulations governing movement and stay of aliens in the country.

## **VIII. PUBLIC DISCLOSURE OF A JUDGEMENT**

### **Article 214**

The court that has decided in the first instance shall deliver the enforceable decision on public disclosure of a judgement through the media to the editor of the media, for the purpose of its publication.

The costs of public disclosure of the judgement shall be borne by the convicted person.

### **Part Three**

## **ENFORCEMENT OF SANCTIONS IMPOSED FOR A MISDEMEANOUR**

### **Chapter Seven**

## **ENFORCEMENT OF PRISON SANCTION**

### **1. General Provisions**

#### *Application of the Provisions of this Law*

### **Article 215**

A custodial sentence imposed for a misdemeanour shall be enforced in accordance with the provisions of this Law, unless where specified otherwise by a special law.

## *Allocation of the Convicted Persons*

### Article 216

The sanctioned person shall be allocated for the enforcement of custodial sentence to a special ward of the penitentiary institution, separately from the persons convicted of criminal offences.

A sanctioned woman shall be allocated for the enforcement of custodial sentence to a correctional facility for women, separately from the convicted women.

## **2. Referral Procedure for Enforcement of a Sanction**

### *Competence for Referring to Enforcement of Sanctions*

#### Article 217

The misdemeanour court that has passed the judgement in the first instance shall have the competence for referral of the sanctioned persons to the enforcement of custodial sentence.

The sanctioned persons shall be referred to serve the custodial sentence in compliance with the regulation of the Minister in charge of judiciary governing the referral of the sanctioned persons to penitentiary institutions.

If the sanctioned person has the domicile or residence outside of the seat of the misdemeanour court that has passed the judgement, the court shall deliver the enforceable judgement to the misdemeanour court with the seat in the place of domicile, i.e. residence of the sanctioned person with a view to referring him/her to the enforcement of sanction.

### *Order for Enforcement of a Sanction*

#### Article 218

The misdemeanour court of the relevant jurisdiction shall order the sanctioned person in writing to present himself/herself on a specified date for the enforcement of the sanction.

The sanctioned person shall be warned that the application for staying of enforcement of the sanction shall be rejected in case of a failure to immediately enclose proof of the existence of reasons for staying to the application.

The time limit from the receipt of the order to the date of presentation may not be shorter than eight or longer than 15 days.

The misdemeanour court of relevant jurisdiction shall notify the penitentiary institution of the date on which the sanctioned person is to present himself/herself for enforcement of the sanction.

### *Beginning of Enforcement of the Sanction*

#### Article 219

The penitentiary institution shall inform the misdemeanour court of relevant jurisdiction whether the sanctioned person has presented himself/herself for the enforcement of custodial sentence.

The beginning of enforcement of a custodial sanction shall be calculated from the date on which the sanctioned person presents himself/herself to the penitentiary institution for the enforcement of the sanction.

## *Conveyance of the Sanctioned Person*

### Article 220

If the sanctioned person who has been duly summoned fails to present himself/herself in the penitentiary institution, the misdemeanour court shall order that he/she is conveyed, and if the sanctioned person is hiding or on the run, the misdemeanour court shall order that an arrest warrant be issued.

In the case referred to in paragraph 1 of this Article, the beginning of the enforcement of the custodial sentence shall be counted from the date on which the sanctioned person is deprived of liberty, and the costs of conveyance shall be borne by the sanctioned person.

### **3. Staying of Enforcement of the Custodial Sentence**

#### *Reasons for Staying of Enforcement of a Sanction*

### Article 221

The enforcement of a custodial sentence imposed for a misdemeanour can be stayed for the same reasons as the enforcement of a custodial sentence imposed for a criminal offence.

#### *Duration of Staying of Enforcement of a Custodial Sentence*

### Article 222

Enforcement of the sanction shall be stayed for a sanctioned woman in the sixth month of pregnancy and for a sanctioned mother with a child younger than one year of age until the child turns one year, and for a sanctioned person who suffers from a serious acute disease for the duration of the disease.

In other cases, enforcement of a sanction shall be stayed for 60 days at the maximum.

#### *Procedure for Staying of Enforcement of a Sanction*

### Article 223

The application for staying of enforcement of a sanction shall be submitted by the sanctioned person.

In the application, reasons for staying shall be indicated, proof corroborating the reasons shall be enclosed and the time period for which staying is requested shall be indicated.

#### *Time Limit for Filing of an Application*

### Article 224

An application for staying shall be filed within three days from the receipt of the order for enforcement of a sanction.

If a severe acute disease of the sanctioned person or death of his/her spouse, child, adopted child, parent or adoptive parent occurs following the expiry of the time limit of three days, the application can be submitted until the date on which the sanctioned person is to present himself/herself for the enforcement of the sanction.

#### *Procedure upon an Application*

### Article 225

An application for staying shall be filed with the misdemeanour court that has referred the sanctioned person to the enforcement of the sanction.

Where no proof has been enclosed with the application, the misdemeanour court shall order the sanctioned person to deliver such proof within eight days and shall warn him/her that the application shall otherwise be rejected.

The misdemeanour court referred to in paragraph 1 of this Article shall be obliged to pass a decision in respect of the application within three days from the receipt date of the application.

Untimely applications, applications filed by unauthorized persons and applications to which no proof has been enclosed shall be rejected.

#### *Appeal against the First Instance Decision*

##### Article 226

A sanctioned person may file an appeal against the first instance decision with the Misdemeanour Court of Appeal.

The appeal shall be filed within three days from the date of receipt of the first instance decision.

The Court shall be obliged to decide upon the appeal within three days from the date of the receipt thereof.

#### *Effect of an Application for Staying*

##### Article 227

An application for staying shall have the suspensive effect on the enforcement of the sanction until the finality of the decision on the application.

If the Misdemeanour Court of Appeal on the occasion of rejection of an application filed for the second time determines that the right to application has been abused, they shall decide that the appeal shall not have the suspensive effect on the enforcement of the sanction.

#### *Revocation and Suspension of Staying of Enforcement of a Sanction*

##### Article 228

The misdemeanour court shall revoke the suspension of the enforcement of a sanction where it is subsequently established that the reasons due to which the suspension has been granted have not existed or have ceased to exist, or that the sanctioned person uses the staying contrary to the approved purpose.

Where the staying is approved to a sanctioned pregnant woman, and the child is still-born, the staying shall be suspended upon the expiry of two months from the childbirth, and if the child died following the childbirth, the staying shall be suspended upon the expiry of two months from the death of the child.

Where the staying is approved to a sanctioned mother of a child that less than one year old, and the child dies, the staying shall be suspended after the expiry of two months from the death of the child.

#### *Appeal against the Decision on Revocation and Suspension of the Enforcement*

##### Article 229

The sanctioned person shall have the right to appeal against the decision on revocation and suspension of enforcement of a custodial sentence under the same conditions as those applicable to appealing against the decision whereby the decision on the application for a stay has been made.

The appeal shall have suspensive effect on the enforcement of the decision.

#### **4. Suspension of Enforcement of a Custodial Sentence Imposed For a Misdemeanour**

##### Article 230

By way of exception, upon an application of the sanctioned person, the Director of the Administration may, due to some duly justified reasons, approve a suspension of the enforcement of the custodial sentence.

A suspension of the enforcement of a sanction shall last for ten days at the maximum, and a suspension granted due to an illness of the convicted person shall last until he/she is cured.

During the suspension of the enforcement of a custodial sentence, the sanctioned person shall not have the rights envisaged by this Law.

##### *Mutatis Mutandis Application*

##### Article 231

The provisions of this Law regulating suspension of the enforcement of custodial sentences imposed for criminal offences shall apply *mutatis mutandis* to the suspension of enforcement of custodial sentences imposed for misdemeanours.

#### **5. Release of the Sanctioned Person**

##### Article 232

The sanctioned person shall be released from the penitentiary institution on the date on which the sanction has expired.

#### Chapter Eight

#### ENFORCEMENT OF PROTECTIVE MEASURES IMPOSED FOR A MISDEMEANOUR

##### ***Mutatis Mutandis Application of Provisions on Enforcement of Security Measures***

##### Article 233

Provisions of this Law regulating the enforcement of security measures imposed for a criminal offence shall apply *mutatis mutandis* to the enforcement of protective measures imposed for a misdemeanour, unless where laid down otherwise by a special law.

#### **Part Four**

#### Chapter Nine

#### ENFORCEMENT OF PROTECTIVE MEASURES IMPOSED FOR A COMMERCIAL OFFENCE

##### ***Mutatis Mutandis Application of Provisions on Enforcement of Security Measures***

##### Article 234

Provisions of this Law regulating the enforcement of security measures shall apply *mutatis mutandis* to the enforcement of protective measures imposed for an commercial offence, unless where laid down otherwise by a special law.

**Part Five**  
**ENFORCEMENT OF OTHER MEASURES**

Chapter Ten

APPLICATION OF DETENTION MEASURE

**Admission to Detention**

Article 235

The person against whom detention has been determined by a court decision shall be admitted to detention.

A written order for admission of the detained person shall be delivered enclosed with the decision on determining of detention in a penitentiary institution.

Provisions of the Code on Criminal Procedure and provisions of this Law shall apply in the procedure involving detained persons.

**Certificate of Admission**

Article 236

The penitentiary institution shall issue a written certificate of admission of the detained person.

*Inter alia*, the date, hour and minute of admission shall be entered in the certificate.

**Placement of the Detained Persons**

Article 237

The detained person shall be placed in a separate ward of the penitentiary institution, organized as a ward of the closed type, separately from the convicted persons, in compliance with the regulation passed by the Minister in charge of judiciary regulating the referral of the detained persons.

On the occasion of placement of the detained persons, account shall be taken of their previous convictions, condition of their health, personal circumstance, language that they can speak and understand and of the type of criminal offence that has been imputed on them.

The detained persons who have jointly committed a criminal offence shall be placed separately one from another as well.

**Examination of the Detained Persons**

Article 238

Immediately following the admission to the penitentiary institution, the detained person shall be examined by a medical doctor.

The finding of the medical doctor shall be entered in the medical card of the detained person.

In case that existence of any bodily injuries is determined on the occasion of the examination referred to in paragraph 1 of this Article, the medical doctor shall be obliged to deliver a written report thereon to the manager of the penitentiary institution.

## **Position of the Detained Persons**

### **Article 239**

A detained person shall stay in a penitentiary institution under the same conditions as the convicted persons, unless where determined otherwise by the Code on Criminal Procedure.

## **Rights of the Detained Persons**

### **Article 240**

A detained person can be provided with support and assistance from the service for treatment in the penitentiary institution. The medical doctor and the service tasked with security shall be obliged to pay attention to the detained person that is showing signs of self-destructive behaviour and to notify the treatment service thereof.

A detained person who is works shall be entitled to compensation and other rights based on work exercised by the convicted persons in compliance with this Law.

## **Health Care of the Detained Persons**

### **Article 241**

A detained person can be taken out of the penitentiary institution and taken to other authorities or in a medical institution upon an order of the court that has ordered the detention only.

Where it is necessary to provide urgent medical assistance to a detained person, the detained person can be taken out of the penitentiary institution and taken to the medical institution, which shall be notified to the court of relevant jurisdiction.

## **Disciplinary Offences of the Detained Persons**

### **Article 242**

When a detained person breaches the regulation on house rules of the penitentiary institution or commits another disciplinary offence, the penitentiary institution shall immediately notify the court before which the proceeding is underway thereof.

## **Application of Measures Aimed at Maintaining Peace and Security against the Detained Persons**

### **Article 243**

Measures aimed at maintaining peace and security shall be applied against a detained person in compliance with the provisions of this Law regulating the application of the measure for maintenance of peace and security against the convicted persons.

The acting judge and the Director of the Administration shall be immediately notified of the application of measures aimed at maintenance of peace and security.

## **Transfer of the Detained Persons**

### **Article 244**

Due to the reasons relating to security, a detained person can be transferred from one penitentiary institution to another.

The decision on transfer, upon a prior consent from the court, shall be passed by the Director of the Administration.

The detained persons shall be entitled to appeal against the decision of the Director of the Administration with the Minister in charge of judiciary, within three days from the receipt

of the decision. The appeal against the decision of the Director of the Administration shall not stay the enforcement of the decision.

No court protection shall be permitted against the final decision of the Minister in charge of judiciary upon an appeal against the decision on transfer.

### **Supervision of Application of Detention Measures**

#### Article 245

The application of a detention measure shall be supervised by the enforcement judge in the territory of which the seat of the penitentiary institution in which the detention is enforced is located or by the judge designated by the President of the court.

### **Release of the Detained Persons**

#### Article 246

A detained person shall be release from the penitentiary institution based on a decision on abolition of detention and an order for release from detention, passed by the court before which the proceeding is underway.

The detained person shall also be immediately released when the determined term of the detention expires.

Prior to the release from the penitentiary institution, the detained person shall be examined by the medical doctor.

### **Death of a Detained Person**

#### Article 247

In the case of death of a detained person, the penitentiary institution shall immediately notify the Police, the Public Prosecutor, his/her spouse, children and adopted children, and if the detained person does not have them, his/her parents, adoptive parent, brother or sister, and/or other relatives.

The court before which the proceeding is underway, the enforcement judge supervising the detained person and the registrar shall additionally be notified of the death of the detained person.

### **Handover of the Mortal Remains of a Detained Person**

#### Article 248

Mortal remains of a detained person and his/her personal belongings shall be handed over to the family members of the detained person.

If the detained person has no family or where the family does not accept the mortal remains, the mortal remains of the detained person shall be buried at the expense of the penitentiary institution.

### **Other Provisions on Application of Detention Measure**

#### Article 249

A detained person who based on the law regulating criminal procedure, at his/her own request, prior to the finality of judgement is referred to enforcement of a custodial sentence, shall be equal in his/her rights and duties to a convicted person.



Chapter Eleven  
CONFISCATION OF PROCEEDS

Article 250

Provisions of the law regulating enforcement and security shall apply in the enforcement procedure of confiscation of proceeds from crime and commercial offences.

The means obtained from confiscation of proceeds shall make the income of the budget of the Republic of Serbia.

**Part Six**  
**LABOUR RELATIONS, SUPERVISION AND CONTROL OF WORK**

Chapter Twelve

LABOUR RELATIONS

**1. General Provision**

Article 251

Provisions of the law regulating rights and obligations of civil servants and employees shall apply to the Director of the Administration and to the persons employed with the Administration, unless where determined otherwise by this Law.

**2. Special Conditions**

Article 252

The Director of the Administration shall decide on the rights, obligations and responsibilities of the employees with the Administration, manager and deputy manager arising from employment, unless where determined otherwise by this Law.

The manager of the penitentiary institution shall decide on the rights, obligations and responsibilities arising from employment within the penitentiary institution.

*Conditions for and Method of Entering into Employment*

Article 253

An operational level post of employment vacancy in the Administration shall be filled in the manner envisaged by the regulations governing filling of vacancies in state authorities, unless where provided for otherwise by this Law.

If a post of employment is not filled through a transfer, acquisition or implementation of an internal call, the Administration shall announce and carry out a public call for filling of vacancies.

A post of employment can be filled if that is envisaged by the regulation on internal organisation and systematisation of posts in the Administration and providing that its filling fits into the financial plan.

A person convicted of a criminal offence prosecuted *ex officio*, a person against whom criminal proceeding for a criminal offence prosecuted *ex officio* is in progress, a person sentenced to an unconditional custodial sentence with a term exceeding three months and a person for whom there are security obstacles in compliance with the regulations governing carrying out of security checks cannot be admitted into employment.

A person who has acquired professional experience in the same or similar jobs with the Ministry in charge of internal affairs, Ministry in charge of defence, Serbian Armed Forces or

Security Information Agency may enter into employment with the service in charge of security through acquisition.

The same or similar jobs, within the meaning of this Law, shall be considered to be the jobs of securing persons and property, delivery of persons deprived of liberty and maintenance of public order and peace, which are carried out by armed persons and persons carrying uniforms.

The person referred to in paragraph 5 of this Article, following the probationary period, shall be obliged to pass the professional examination for carrying out of jobs in the security service.

If the person referred to in paragraph 5 of this Article fails the professional examination for carrying out of jobs with the security service, his/her employment shall be terminated, except where that is the result of an illness or other duly justified reasons.

The regulation governing the method of implementation of a public call for filling of posts of employment with the Administration shall be passed by the Minister in charge of judiciary.

#### *Special Cases of Termination of Employment*

##### Article 254

Employment shall be terminated:

1) when it is determined that information on which entering into employment has been conditional upon has been false;

2) when the court delivers a final judgement whereby the employee is convicted of an unconditional custodial sentence for a criminal offence prosecuted *ex officio* or a final judgement whereby an unconditional custodial sentence of six months at the minimum is imposed.

#### *Apprenticeship with the Security Service*

##### Article 255

A person who, in addition to the conditions laid down by the law, fulfils the following conditions can be admitted as an apprentice with the security service: that he/she has completed secondary education, that he/she is younger than 30 years and that he/she is mentally and physically capable of carrying out the service.

The mental and physical abilities shall be determined by a commission appointed by the Director of the Administration.

A person up to 35 years of age may be admitted as an apprentice with the security service, providing that he/she has acquired higher education following a second degree study course (graduate academic study course - Master, a specialist academic study course, a specialist vocational study course) and/or following a basic study course of the duration of four years at the minimum and acquired higher education in the first degree study course (a basic academic study course, a basic vocational study course) and/or following a study course of the duration of up to three years.

A decision on rejection, in which the reasons due to which the candidate is not allowed to further participate in the admission procedure are indicated, shall be delivered to a candidate who has not fulfilled the condition relating to the mental and physical abilities, health abilities or for whom any security obstacles exist.

Appeals against the decision referred to in paragraph 4 of this Article shall be permitted with the Appeal Commission of the Government, within eight days from the date of receipt of the decision. No appeal shall stay the enforcement of the decision.

## *The Program of Apprentice Training with the Security Service*

### Article 256

The apprenticeship with the security service shall be carried out within the apprentice training, based on the apprenticeship program.

The program of apprentice training with the security service shall be passed by the Minister in charge of judiciary.

### *Professional Examination for the Security Service*

#### Article 257

An apprentice shall acquire a relevant rank, providing that he/she, following the completed apprenticeship passes the professional examination for the security service.

The employment shall be terminated for an apprentice with the security service if he/she fails to pass the professional examination for the security service within the prescribed time limit, except where that has happened due to an illness or due to some other duly justified reasons.

Employment shall be terminated for an apprentice who leaves the training of his/her own will prior to taking of the professional examination for the security service or is excluded from the training through his/her fault and he/she shall be obliged to compensate the costs of the training.

### *Ranks of the Employees with the Administration \**

#### Article 258\*

*The posts of employment held by the civil servants with the Administration shall be divided into positions, criminal sanction enforcement operational posts, posts dedicated to carrying out of tasks with the security service and executive posts. \**

*The criminal sanction enforcement operational posts and the posts dedicated to carrying out of tasks with the security service shall be the posts of employment in which the tasks involving application of legal regulations pertaining to carrying out of the tasks relating to enforcement of criminal sanctions are carried out, which are categorized in separate ranks relating to enforcement of criminal sanctions (hereinafter: special ranks). \**

*The criminal sanction enforcement operational posts shall be categorized in the following special ranks: \**

*1) ranks with the secondary school diploma – junior officer for the enforcement of criminal sanctions and officer for the enforcement of criminal sanctions; \**

*2) ranks with the higher education diploma of the basic academic study courses of the scope of 180 ECTS points at the minimum, basic vocational study courses, and/or study courses of the duration of three years – junior associate for the enforcement of criminal sanctions and associate for the enforcement of criminal sanctions; \**

*3) ranks with the higher education diploma of the basic academic study courses of the scope of 240 ECTS points at the minimum, Master academic study courses, Master vocational*

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

*study courses, specialist vocational study courses, specialist academic study courses, and/or basic study courses of the duration of four years at the minimum or specialist university study courses – junior advisor for the enforcement of criminal sanctions, advisor for the enforcement of criminal sanctions, independent advisor for the enforcement of criminal sanctions, senior advisor for the enforcement of criminal sanctions of the third rank, senior advisor for the enforcement of criminal sanctions of the second rank and senior advisor for the enforcement of criminal sanctions of the first rank.\**

*For the needs of transfers and allocation of civil servants, all the posts of employment which are categorised in the rank of the senior advisor for the enforcement of criminal sanctions shall be considered to be adequate posts of employment, irrespective of the manner of their ranking. \**

*The posts of employment for carrying out of jobs with the security service shall be categorised in the following individual ranks: \**

*1) ranks with the secondary school diploma – commander, senior commander and junior superintendent;\**

*2) ranks with the higher education diploma of the basic academic study courses of the scope of 180 ECTS points at the minimum, basic vocational study courses, and/or study courses of the duration up to three years – superintendent;\**

*3) ranks with the higher education diploma of the basic academic study courses of the scope of 240 ECTS points at the minimum, Master academic study courses, Master vocational study courses, specialist vocational study courses, specialist academic study courses, and/or basic study courses of the duration of four years at the minimum or specialist university study courses – junior commander, commander and senior commander. \**

*In order that a position of employment is categorized as an individual rank, it is necessary that it is determined in a special legal regulation as a post in which the years of insurance service are calculated with extended duration or alternatively that it fulfils one of the following conditions at the minimum: \**

*1) that the tasks of the post of employment are carried out by a civil servant who, with- in the meaning of this Law, has the status of an authorized officer;\**

*2) that the post of employment comprises of the tasks that by their nature, contents, de- scription and significance predominantly involve work with the persons deprived of liberty through direct contact;\**

*3) that the post of employment comprises of the tasks whereby individual work process- es in the Administration as a whole and in all penitentiary institutions within the Administra- tion are integrated, coordinated, directed or supervised. \**

*The Government shall regulate in more detail categorisation of posts of employment into individual ranks, the tasks to be carried out in each individual rank, as well as the criteria for the description of tasks within the posts of employment in an act that shall regulate internal organisation and systematisation of posts in the Administration for enforcement of criminal sanctions that are categorized in individual ranks. \**

*Legal regulations governing categorisation of posts of employment and criteria for de- scription of posts of employment for civil servants shall apply to categorisation of positions and operational level posts of employment. \**

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

*Special Professional Examination for Carrying out of Jobs with the Security Service\**

*Article 258a\**

*Training and taking of a special professional examination (hereinafter: the examination) shall be mandatory for carrying out of jobs with the security service in the posts categorized in the ranks of commander, superintendent and junior commander.\**

*The employees with the security service who have completed secondary school prescribed by the law and passed the examination for carrying out of jobs in the posts categorized in the rank of commander may additionally carry out the jobs in the posts categorized in the rank of senior commander and junior superintendent.\**

*The employees with the security service who have acquired higher education that is required in accordance with the law for taking of a professional examination for work in the posts in the rank of a junior commander, may, upon having passed that examination, additionally carry out the jobs in the posts categorized in the rank of commander and senior commander.\**

*The employees referred to in paragraphs 2 and 3 of this Article may carry out the said jobs providing that the conditions laid down by the regulations governing promotion, deployment and transfer of civil servants are fulfilled, along with the conditions prescribed by the act regulating internal organisation and systematisation of posts in the Administration.\**

*The examination shall be taken before the examination commission that shall be established by the Director of the Administration.\**

*The basic, continuous, specialist, supplemental and other types of training, professional training and expert professional training of employees shall be carried out by the lecturers that shall be designated by the Director of the Administration.\**

*Members of the examination commission and lecturers must possess higher education from the study courses of the second degree (Master academic study courses, Master vocational study courses, specialist academic study courses), basic academic study courses of the scope of 240 ECTS points at the minimum, and/or in the basic studies of the duration of four years at the minimum.\**

*The members of the examination commission and the lecturers shall be entitled to remuneration for work, the amount of which shall be determined by the Minister in charge of judiciary.\**

*A candidate shall take the examination for the first time at the expense of the penitentiary institution, and the next time at his/her own expense.\**

*The regulation governing training and professional training and expert professional training, as well as the conditions, method of application for training and examination taking, examination curriculum, contents and maintenance of records on professional examinations passed and training, professional training and expert professional training completed and certificates and attestations issued in more detail shall be passed by the Minister in charge of judiciary.\**

*A certificate shall be issued on the examination passed. An attestation shall be issued on completed basic, continuous, specialist, supplemental or other training, professional training and expert professional training.\**

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

*The appearance and the contents of the forms of certificate and confirmation shall be prescribed by the Minister in charge of judiciary.\**

*The employees with the security service shall be exempt from the obligation to take the state professional examination.\**

#### *Training, Vocational Training and Advanced Professional Training\**

##### *Article 259\**

*The Training Centre shall carry out the training programs, programs of vocational training and advanced professional training for: apprentices, employees with the security service, other employees with the Administration and employees with other state authorities.\**

*The training programs (basic, professional, continuous, specialist, supplemental and other types of training), vocational training and advanced professional training and the method of examination taking for the employees with the Administration shall be prepared by the teaching council of the Training Centre.\**

*The teaching council of the Training Centre shall comprise of the manager of the Training Centre, president and deputy president of the examination commission, president of the Administration for Enforcement of Criminal Sanctions, secretary of the examination commission, two lecturers and three members of the examination commission.\**

*The plan for implementation of the programs of basic, continuous, specialist, supplemental and other types of training, as well as of the vocational training and advanced professional training, shall be passed by the Director of the Administration at the proposal of the manager of the Training Centre.\**

#### *Rights and Duties of the Employees with the Administration*

##### *Article 260*

The employed persons must provide good example for the persons against whom sanctions are enforced by their conduct and appearance in all occasions.

In addition to the jobs and activities that a civil servant cannot pursue, the employees with the Administration may not perform the private security jobs.

#### *Life insurance for the Employees with the Administration*

##### *Article 261*

The Administration shall provide life insurances for the employees and shall bear the costs of funeral for the employees who lose their lives in the course or on the occasion of carrying out their service.

The family of the persons referred to in paragraph 1 of this Article shall be allocated one-off monetary aid by the Administration amounting to 12 monthly wages, calculated according to the month in which the employed person lost his/her life.

#### *Wages and Years of Insurance Service of the Employees with the Administration*

##### *Article 262*

The coefficients used in calculation and payment of wages in the Administration shall be determined by the Government.

The years of insurance service for the Director of the Administration and the employees with the Administration can be calculated with extended duration, so that for each 12 months

---

\* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

effectively spent in service are calculated as up to 16 months of years of insurance service at the maximum.

*(Deleted)\**

The post for which the years of insurance service are calculated with extended duration shall be determined by agreement between the Minister in charge of judiciary and the Minister in charge of pension and disability insurance.

#### *Employee Health Control and Testing*

##### Article 263

Employees whose years of insurance service is calculated with extended duration so that each 12 month's period effectively spent in service is calculated up to 16 months of years of insurance service at the maximum shall be referred to health control once every three years, and the Director of the Administration may, on his/her own initiative or at the proposal of the manager, decide that the health control is to be performed earlier than that.

The manager of the penitentiary institution may, in case of suspicion, order testing of staff for psychoactive substances and alcohol.

The Director of the Administration may decide that a check of mental and physical abilities of the staff with the security service is to be carried out.

The check of mental and physical abilities shall be carried out by the commission appointed by the Director of the Administration.

#### *Termination of Employment in Accordance With the Needs of the Service*

##### Article 264

In accordance with the needs of the service, based on a decision of the Minister in charge of judiciary, employment can be terminated for a person whose years of insurance service are calculated with extended duration, with the right to old age pension even before they fulfil the general conditions for acquiring the right to old age pension, in compliance with the regulations on pension and disability insurance.

The person referred to in paragraph 1 of this Article shall be entitled, in accordance with the acquired right to pension, to severance pay amounting to the fivefold amount of wage received for the last month preceding retirement.

#### *Limitation of Rights from Employment in the Administration*

##### Article 265

When the needs of the service require so, an employed person shall be obliged to work longer hours than the full working hours.

The Director of the Administration and the manager of the penitentiary institution may, when the needs of the service so require, postpone or interrupt the annual vacation of an employed person.

An employed person may be, due to increased workload or other needs of the service, without his/her consent be seconded to an adequate position in another organisational unit of the Administration, for a period of one year at the maximum.

An internal employment contest shall be carried out for the employee that is seconded to work in the Special Detention Unit. The regulation governing special conditions to be fulfilled by the employee seconded to the Special Detention Unit and the method of his/her selection prior to secondment to work shall be passed by the Minister in charge of judiciary.

The decision on secondment of an employed person shall be passed by the Director of the Administration. An appeal can be filed with the Minister in charge of judiciary against the decision on the secondment, within eight days from the date of receipt of the decision. The appeal shall not stay the enforcement of the decision.

The employed person that has been seconded to a position in another organisational unit shall be entitled to have the costs of transport, accommodation and meals covered, in compliance with the regulations governing remunerations and other employee allowances.

### *Breaches of Official Obligations and Duties*

#### Article 266

The employees with the Administration shall be held disciplinary liable for pettier and graver breaches of official obligations and duties.

In addition to the pettier breaches of official obligations and duties laid down by the law regulating rights and duties of civil servants and employees and by the Code of Conduct of the Civil Servants, a pettier breach of official obligations and duties shall be considered to be each conduct that is contrary to the regulations on the manner of performance of the tasks with the Administration.

In addition to the graver breaches of official obligations and duties laid down by the law regulating the rights and duties of civil servants and employees, a graver breach of official obligations and duties of the employees with the Administration shall also be considered to include:

- 1) receiving of gifts from the persons deprived of liberty, their relatives and other persons related to the persons deprived of liberty;
- 2) trading and exchange of goods with the persons deprived of liberty;
- 3) bringing in or carrying out of a penitentiary institution objects on behalf of the persons deprived of liberty;
- 4) making agreements with a person deprived of liberty which are directed at assisting his/her escape or obstructing an investigation;
- 5) failure to report an agreement among the persons deprived of liberty relating to organisation of a mutiny, escape or other forms of breach of the regulations on house rules of the penitentiary institution;
- 6) failure to take actions against a person deprived of liberty who is trying to escape;
- 7) breach of regulations governing keeping and protection of secret information;
- 8) involvement in occupations that are incompatible with official duties;
- 9) issuing or executing orders whereby security of persons deprived of liberty and property is evidently jeopardized;
- 10) overstepping of powers in application of means of coercion;
- 11) inappropriate, violent or insulting behaviour towards the manager, co-workers or clients, as well as towards the persons deprived of liberty;
- 12) unauthorized departure from the workplace or leaving of persons on the occasion of conveyance;



13) unauthorized provision of information or notices relating to carrying out of the service or work of the penitentiary institution;

14) coming to work under the influence of alcohol or psychoactive substances or consuming alcohol or psychoactive substances during work;

15) failure to act in compliance with the order of a line manager;

16) behaviour that is detrimental to the reputation of the Administration.

The measure of termination of employment can be imposed for all graver breaches of obligations and duties from employment.

### *Disciplinary Proceedings*

#### Article 267

Disciplinary proceedings against the staff members with a penitentiary institution shall be led by the manager of the penitentiary institution or by a person duly authorized by him/her. The person authorized by the manager of the penitentiary institution must be a graduate of law – Master, i.e. a graduate in law. The manager shall decide on the disciplinary liability.

Disciplinary proceedings against the manager, deputy manager and the employees in the seat of the Administration shall be led by the disciplinary commission appointed by the Director of the Administration. The Director of the Administration shall decide on disciplinary liability, upon the proposal of the disciplinary commission.

An appeal can be filed with the Minister in charge of judiciary against the first instance decision passed in a disciplinary proceeding, within eight days from the date of receipt of the decision.

### *Awarding of Employees*

#### Article 268

The Director of the Administration shall pass decisions on awarding of employees, upon the proposal of the manager or *ex officio*, for exceptional professional commitment amounting up to 30% of the basic wage received for the month preceding the award.

### *Other Provisions*

#### Article 269

In addition to the act envisaged by this Law, the Minister in charge of judiciary shall pass the regulations governing:

1) the internal organisation and systematisation of posts in the Administration;

2) the uniform, designations, formal wear, weapons, special vehicles and other equipment in the security service;

3) the expert professional training, training and examinations in the Administration, the curriculum and method of professional examination taking and expert professional training, the contents and keeping of records on professional examinations and expert professional training, professional examinations passed and completed expert professional training, and on issued certificates of the professional examinations passed;

4) the method of carrying out tasks in the security service.

## Chapter Thirteen

### SUPERVISION AND CONTROL OF WORK

#### **Supervision of Work in Penitentiary Institutions in General**

##### Article 270

The organisational unit within the Administration that is competent for carrying out of inspection tasks (hereinafter: the Inspection Department) and the organisational unit competent for carrying out security and operational tasks in the Administration shall supervise the work of the penitentiary institution through duly authorized persons.

The Inspection Department shall supervise the legality and expertise of work carried out in the penitentiary institutions by means of regular, control and extraordinary supervision.

The following shall be covered by the supervisory activity of the Inspection Department:

- 1) status and protection of rights of the persons deprived of liberty;
- 2) professional work in establishing and implementation of the sentence programs for the persons deprived of liberty;
- 3) control of measures taken to secure and provide safety of the penitentiary institutions;
- 4) material and financial operations of the penitentiary institution;
- 5) training and finding occupations for the persons deprived of liberty;
- 6) management of the penitentiary institution and work of its employees;
- 7) control of measures and legality of activities taken with the aim of securing the persons deprived of liberty.

Scientific and professional institutions and individuals can be hired to supervise the expert work.

The organisational unit in charge of security and operational tasks in the Administration shall carry out the supervision tasks relating to:

- 1) security and operational work with the aim of coordinating the internal and external security of penitentiary institution and assessing the security risk in the penitentiary institution and protecting the safety of the persons deprived of liberty;
- 2) the work and actions of the staff with the security service;
- 3) cooperation with other state authorities.

#### **Rights and Duties of the Person Authorized to Carry Out Supervision**

##### Article 271

The authorized person shall be entitled to interview the convicted persons without the presence of employees with the penitentiary institution.

The manager of the penitentiary institution shall be obliged to enable the authorized person to work unobstructed and to make available to him/her complete information required for carrying out supervision.

## **Records and Reports on Supervision**

### *Article 272*

The authorized person shall prepare a record of completed supervision.

The authorized person shall prepare a report on completed security and operational supervision.

The authorized person referred to in paragraphs 1 and 2 of this Article may order measures and set time limits for removal of any deficiencies perceived.

If the authorized person, when carrying out supervision, is of the opinion that the manager of the penitentiary institution has committed a breach of official duty, he/she shall initiate a disciplinary proceeding against him/her before the disciplinary commission of the Administration. If he/she is of the opinion that another employee with the penitentiary institution has breached the official duty, and the authorized person has failed to initiate a disciplinary proceeding, he/she shall initiate the disciplinary proceeding.

In case of reasonable doubt that a criminal offence prosecuted *ex officio* or a commercial offence has been committed, the authorized person referred to in paragraph 1 of this Article shall be obliged to file criminal charges with the competent Public Prosecutor.

The record shall include the measures for removal of perceived deficiencies in the operations of the penitentiary institution.

The record may include a proposal of measures for improvement of work in the penitentiary institutions.

## **Delivery of Records and Report on Supervision**

### *Article 273*

The record referred to in Article 272, paragraph 1 of this Law shall be delivered to the manager of the penitentiary institution in which the supervision has been carried out, to the Director of the Administration and to the Minister in charge of judiciary. The record may be delivered to the managers of other penitentiary institutions and to the heads of departments in the headquarters of the Administration.

The report referred to in Article 272, paragraph 2 of this Law shall be delivered to the Director of the Administration.

The authorized person referred to in Article 272, paragraph 2 of this Law may submit to the Director of the Administration an initiative for the transfer of a convicted person from one penitentiary institution to another or for a change of place of enforcement of the custodial sentence for safety reasons.

The manager of the penitentiary institution shall be obliged to act in compliance with the ordered measures and to inform the Director of the Administration and the Minister in charge of judiciary thereof.

## **Right of the Manager of a Penitentiary Institution to Objection**

### *Article 274*

The manager of a penitentiary institution may file an objection against the ordered and proposed measures with the Minister in charge of judiciary, within eight days from receipt date of the record.

The objection shall not stay the enforcement of the measures ordered.

The Minister in charge of judiciary may accept the statements from the objection and discontinue or determine longer time limits for the enforcement of measures ordered, or order some other measures for removal of perceived deficiencies.

### **Other Provisions on Supervision of Operation of Penitentiary Institutions**

#### *Article 275*

When a penitentiary institution does not fulfil the prescribed sanitary and hygienic conditions or when security is jeopardized in a penitentiary institution, the Minister in charge of judiciary may pass a decision on the transfer of the convicted persons to another penitentiary institution.

### **Supervision of Work in the Special Prison Hospital**

#### *Article 276*

Expert work in the Special Hospital Prison and of the medical services in penitentiary institutions shall be supervised by the Ministry in charge of health.

### **By-law on Supervision**

#### *Article 277*

The regulation governing supervision of work in penitentiary institutions shall be passed by the Minister in charge of judiciary.

### **Control by the Assembly**

#### *Article 278*

The National Assembly shall establish a commission to control the enforcement of criminal sanctions (hereinafter: the Commission).

The Commission shall have five members who shall be elected by the National Assembly among the national deputies, at the proposal of the competent committee.

When carrying out control, the Commission shall have the right of access to the penitentiary institution and all the rooms in the penitentiary institution, right to access information of significance for the work of the Commission, right to unobstructed visits to persons against which criminal sanctions are enforced and the detained persons, to interview these persons, as well as the employees of the penitentiary institution, without presence of other persons.

The Commission shall be vested with the powers granted to the authorized person referred to in Articles 270 and 271 of this Law.

During its work, the Commission may hire experts from relevant fields, who shall carry out the tasks for which they are hired, in the presence of the Commission and shall have the rights of the Commission referred to in paragraph 3 of this Article.

The Administration shall be obliged to provide the Commission with unobstructed access to information of significance for its work, to the penitentiary institutions, to persons against whom criminal sanctions are enforced, to the detained persons and to the employees with the penitentiary institutions.

The Administration shall submit reports on its work and on the situation in the field of enforcement of criminal sanctions to the Commission when the Commission request that, and once a year at the minimum.

The Commission shall submit reports on its work and on the situation in the field of enforcement of criminal sanctions to the National Assembly once a year at the minimum.

Funds for work of the Commission shall be provided in the budget of the Republic of Serbia.

### **Control by the Protector of Citizens**

#### Article 279

Supervision and control of the enforcement of criminal sanctions, in compliance with the law, shall comprise the national mechanism for the prevention of torture and the Protector of Citizens.

The National Mechanism for the Prevention of Torture and the Protector of Citizens may interview the persons deprived of liberty without the presence of employees with the penitentiary institution, the employees with the penitentiary institution, visit all the rooms in a penitentiary institution and inspect the necessary documentation for carrying out of control and supervision.

### **Part Seven**

#### Chapter Fourteen

#### PENAL PROVISIONS

### **Misdemeanour of a Natural Person and Entrepreneur Who Have Breached the Prohibition to Pursue a Profession, a Business Activity or Carry Out Duty**

#### Article 280

A fine ranging from RSD 5,000 to RSD 100,000 shall be imposed for misdemeanour against a natural person who has breached the prohibition to pursue a profession, a business activity or to carry out a duty.

A fine ranging from RSD 10,000 to RSD 100,000 shall also be imposed against an entrepreneur for the misdemeanour referred to in paragraph 1 of this Article.

### **Misdemeanour of a Legal Person That Has Enabled Pursuit of a Profession, a Business Activity or Carrying out of a Duty**

#### Article 281

A fine ranging from RSD 100,000 to RSD 500,000 shall be imposed for misdemeanour against a legal person that has enabled pursuit of a profession, a business activity or carrying out of a duty to a person against which a safety measure of prohibition to pursue a profession, a business activity or to carry out a duty has been imposed.

A fine ranging from RSD 5,000 to RSD 50,000 shall be imposed against the responsible person with the legal person for the misdemeanour referred to in paragraph 1 of this Article.

A fine ranging from RSD 10,000 to RSD 100,000 shall also be imposed against an entrepreneur for the misdemeanour referred to in paragraph 1 of this Article.

### **Part Eight**

#### Chapter Fifteen

#### TRANSITIONAL AND FINAL PROVISIONS

### **Cessation of Application of the Previous Law**

#### Article 282

On the date of entry into force of this Law, the Law on Enforcement of Criminal Sanctions ("Službeni glasnik RS", Nos. 85/05, 72/09 and 31/11) shall cease to have effect.

Regulations envisaged by this Law shall be passed within six months from the date of entry into force of this Law.

Until the adoption of regulations envisaged by this Law, regulations adopted in accordance with the provisions of the Law on Enforcement of Criminal Sanctions (“Službeni glasnik RS”, Nos. 85/05, 72/09 and 31/11) shall apply, in so much as they are not contrary to this Law.

### **Completion of Initiated Disciplinary Proceedings**

#### Article 283

The disciplinary proceedings against the employees and the convicted that were initiated, i.e. instituted up to the entry into force of this Law shall be completed in accordance with the provisions of the Law on Execution of Criminal Sanctions (“Službeni glasnik RS”, Nos. 85/05, 72/09 and 31/11).

### **Entry of the Law in Force**

#### Article 284

This Law shall enter into force on the eighth day from the date of its publication in the Službeni glasnik Republike Srbije and shall be applied upon expiry of three months from the date of its entry into force.

\*\*\*

### **ARTICLES NOT INCLUDED IN THE FINAL TEXT**

#### **LAW ON AMENDMENTS AND ADDITIONS TO THE LAW ON EXECUTION OF CRIMINAL SANCTIONS**

*(Službeni glasnik RS, No. 35/19)*

#### Article 14

*The special professional exams for performance of jobs with the security service which have applied until the entry into force of this Law shall be completed in accordance with the regulations that were applicable at the time when such applications were submitted.*

#### Article 15

*Those employed with the security service who have passed the exam for work in the positions categorized to be of the rank of a commander according to the previous regulations shall not be obliged to take the exam for work in the positions categorized to be of the rank of a junior commander as prescribed by this Law.*

#### Article 16

*The bylaw referred to in Article 1 of this Law shall be passed within three months from the date of entry into force of this Law.*

*The bylaw referred to in Article 11 of this Law shall be passed by the beginning of application of the law regulating wages of civil servants and employees.*

#### Article 17

*Provisions of Articles 10, 11 and 13 of this Law shall apply from the initial date of application of the law regulating the wages of civil servants and employees and until then Articles 258 and 262 of the Law on Execution of Criminal Sanctions (“Službeni glasnik RS”, No. 55/14) shall remain in force.*

#### Article 18

*This Law shall enter into force on the eighth day from the date of its publication in the Službeni glasnik Republike Srbije.*