UNOFFICIAL, CONSOLIDATED VERSION

("Official Gazette" of Bosnia and Herzegovina, 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, 12/09, 16/09, 93/09, 72/13)

CRIMINAL PROCEDURE CODE OF BOSNIA AND HERZEGOVINA[1]

PART ONE - BASIC PROVISIONS

CHAPTER I - BASIC PRINCIPLES

Article 1

Scope and Application of This Code

This Code shall set forth the rules of the criminal procedure that are mandatory for the proceedings of the Court of Bosnia and Herzegovina (hereinafter: the Court), the Chief Prosecutor of Bosnia and Herzegovina (hereinafter: the Prosecutor) and other participants in the criminal proceedings provided by this Code, when acting in criminal matters.

Article 2

Principle of Legality

(1) The rules set forth in this Code shall provide for an innocent person to be acquitted and for a perpetrator of an offense to be pronounced a criminal sanction in legally prescribed proceedings under the conditions provided by the Criminal Code of Bosnia and Herzegovina (hereinafter: the Criminal Code) and other laws of the state of Bosnia and Herzegovina that prescribe criminal offenses.
(2) Prior to the rendering of a final verdict the freedom and other rights of the suspect or accused may be limited only under the conditions set forth in this Code.
(3) A criminal penalty with respect to the criminal offenses over which the Court has jurisdiction may be pronounced only by this Court in proceedings instituted and conducted in accordance with this Code, unless otherwise specified under this Code.

Article 3

Presumption of Innocence and *In Dubio Pro Reo*

(1) A person shall be considered innocent of a crime until guilt has been established by a final verdict.
(2) A doubt with respect to the existence of facts composing characteristics of a criminal offense or on which depends an application of certain provisions of criminal legislation shall be decided by the Court with a verdict and in a manner that is the most favorable for accused.

Article 4

Ne Bis in Idem

No person shall be tried again for the criminal offense he has been already tried for and for which the legally binding decision has been rendered.

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[1] High Representative imposed this Criminal Procedure Code. Criminal Procedure Code has been adopted by Bosnia and Herzegovina Parliamentary Assembly and published in the Official Gazette of Bosnia and Herzegovina 36/03. Correction to the text of the translation of the Criminal Procedure Code of Bosnia and Herzegovina was published in the Official Gazette of Bosnia and Herzegovina 32/03. Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 26/04 – underline; the High Representative's Decision Enacting the Law on Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 63/04 – i*talic, underline*, Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 13/05 – **bold, underline;** Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 48/05 – ***bold, italic***; High Representative's Decision Enacting the Law on Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 46/06 – *italic, duble underline*; Law on application of the Law on Amendments to the Criminal Procedure Code of Bosnia and Herzegovina published in the Official Gazette of BiH 46/06, was published in the Official Gazette of BiH 76/06; High Representative's Decision Enacting the Law on Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 29/07 – ***bold, italic, underline***. Law on application of the Law on Amendments to the Criminal Procedure Code of Bosnia and Herzegovina published in the Official Gazette of BiH 63/04, was published in the Official Gazette of BiH 32/07. High Representative's Decision Enacting the Law on Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 53/07 – ***bold, italic, duble underline***. Law on application of the Law on Amendments to the Criminal Procedure Code of Bosnia and Herzegovina published in the Official Gazette of BiH 29/07, was published in the Official Gazette of BiH 76/07. Law on application of the Law on Amendments to the Criminal Procedure Code of Bosnia and Herzegovina published in the Official Gazette of BiH 53/07, was published in the Official Gazette of BiH 15/08. Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 58/08 – blue. Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 12/09 – blue, underline. Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 16/09 – *blue, underline, italic*. Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 93/09 – ***blue, bold, italic.*** Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, published in the Official Gazette of Bosnia and Herzegovina 72/13 – **blue, bold.**

Article 5

Rights of a Person Deprived of Liberty

(1) A person deprived of liberty must, in his native tongue or any other language that he understands, be immediately informed about reasons for his apprehension and instructed on the fact that he is not bound to make a statement, nor respond to questions asked, on his right to a defense attorney of his own choice as well as on the fact that his family, consular officer of the foreign state whose citizen he is, or other person designated by him shall be informed about his deprivation of liberty.
(2) A person deprived of liberty shall be appointed a defense attorney upon his request if according to his financial status he cannot pay the expenses of a defense.

Article 6

Rights of a Suspect or Accused

(1) The suspect, on his first questioning, must be informed about the offense that he is charged with and grounds for suspicion against him and that statement of his may be used as evidence in further proceeding.
(2) The suspect or accused must be provided with an opportunity to make a statement regarding all the facts and evidence incriminating him and to present all facts and evidence in his favor.
(3) The suspect or accused shall not be bound to present his defense or to answer questions posed to him.

Article 7

Right to Defense

(1) The suspect or accused has a right to present his own defense or to defend himself with the professional aid of a defense attorney of his own choice.
(2) If the suspect or accused does not have a defense attorney, a defense attorney shall be appointed to him in cases as stipulated by this Code.
(3) The suspect or accused must be given sufficient time to prepare a defense.

Article 8

Language and Alphabet

(1) The official languages of Bosnia and Herzegovina - the Bosnian language, the Croatian language and the Serbian language and both alphabets of Latin and Cyrillic, shall be in equal official use in criminal proceedings.
(2) Parties, witnesses and other participants in the proceedings shall have the right to use mother tongue or the language they understand. in the course of the proceedings. If such a participant does not understand one of the official languages of Bosnia and Herzegovina, provisions shall be made for oral interpretation of the testimony of that person and other persons and interpretation of official documents and identifications and other written pieces of evidence.
(3) Any above-referenced individual shall be informed of the right referred to in Paragraph 2 of this Article prior to the first questioning and may waive such right if he knows the language in which the proceedings are being conducted. A note shall be made in the record that the participant has been so informed, and his response thereto shall also be noted.
(4) Interpretation shall be performed by a Court interpreter.

Article 9

Sending and Delivery of Papers

(1) The Court and other bodies participating in the proceedings shall issue summonses, decisions and other papers in the official languages referred to in Paragraph 1 of Article 8 of this Code.
(2) Documents shall be submitted in the official languages referred to in Paragraph 1 of Article 8 shall be submitted to the Court and other bodies participating in the proceedings.
(3) The person who is deprived of freedom or in custody, serving sentence or committed to mandatory psychiatric treatment or to mandatory rehabilitation for an addiction, shall also be delivered the translation of the papers referred to in Paragraphs 1 and 2 of this Article in mother tongue or the language they understand.

Article 10

Legally Invalid Evidence

(1) It shall be forbidden to extort a confession or any other statement from the suspect, the accused or any other participant in the proceedings.
(2) The Court may not base its decision on evidence obtained through violation of human rights and freedoms prescribed by the Constitution and international treaties ratified by Bosnia and Herzegovina, nor on evidence obtained through essential violation of this Code.
(3) The Court may not base its decision on evidence derived from the evidence referred to in Paragraph 2 of this Article.

Article 11

Right to Compensation and Rehabilitation

A person who has been unjustifiably convicted of a criminal offense or deprived of freedom without cause shall have the right to non-material rehabilitation, compensation for damages from the budget, as well as other rights as stipulated by law.

Article 12

Instruction on Rights

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

Article 13

Right to Trial without Delay

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

Article 14

Equality of Arms

(1) The Court shall treat equally the parties and the defence attorney and provide each party an equal opportunity with regards to the access to the evidences and presenting them at the main trial.
(2) The Court, the Prosecutor and other bodies participating in the proceedings are bound to objectively study and establish with equal attention facts that are exculpatory as well as inculpatory for the suspect or the accused.

Article 15

Free Evaluation of Evidence

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

Article 16

Accusatory Principle

Criminal proceedings may only be initiated and conducted upon the request of the Prosecutor.

Article 17

Principle of Legality of Prosecution

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

Article 18

Consequences of Initiation of the Proceedings

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

Article 19

Preliminary Issues

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

CHAPTER II - DEFINITION OF TERMS

Article 20

Basic Terms

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

a) The term "suspect" refers to a person with respect to whom there are grounds for suspicion that the person may have committed a criminal offense;
b) The term "accused" refers to a person against whom one or more counts in an indictment have been confirmed;
c) The term "convicted person" refers to a person pronounced criminally responsible for a particular criminal offense in a final verdict;
d) "The preliminary proceeding judge" is a judge who, during the investigative procedure and after the indictment has been brought, acts in cases when prescribed by this Code;

e) The term “preliminary hearing judge” refers to a judge who after filing of the indictment acts in cases as prescribed by this Code;
f) The term “parties” refers to the Prosecutor and to a suspect or accused;
g) “An authorised official person” is a person having an appropriate authorisation within the police authorities in Bosnia and Herzegovina, including the State Investigation and Protection Agency, the State Border Service, the Judicial Police, the Financial Police, as well as within the customs authorities, tax authorities and military police authorities in Bosnia and Herzegovina. ***Expert associates as well as investigators working for the Prosecutor’s Office of Bosnia and Herzegovina under the authorization of the Prosecutor shall also be considered as authorized officials.***
h) the term "injured party" refers to a person whose personal or property rights have been threatened or violated by a criminal offense;
i) The term “Legal persons” refers to all persons as defined in the CPC BiH including: corporations, companies, associations, firms and partnerships and other business enterprises;
j) The term “investigation” refers to all activities undertaken by the Prosecutor or by authorized officials in accordance with this Code, including the collection and preservation of information and evidence;
k) The term “cross-examination” refers to the questioning of a witness or expert witness by the party or the defense attorney who has not called the witness or expert witness to testify;
l) The term “direct examination” refers to the questioning of a witness or expert witness by the party or the defense attorney who called the witness or expert witness to testify;
m) The term “grounded suspicion” refers to a higher degree of suspicion based on collected evidence leading to the conclusion that a criminal offense may have been committed;
n) the terms "writings" and "recordings" refer to the contents of letters, words, or numbers, or their equivalent, generated by handwriting, typewriting, printing, photocopying, photographing, magnetic impulse recording, mechanical or electronic recording, or other form of data compilation;
o) The term "photographs" refers to still and digital photographs, X-ray films, videotapes, and motion pictures;
p) The term "original" refers to an actual writing, recording or similar counterpart intended to have the same effect by a person writing, recording or issuing it. An "original" of a photograph includes the negative or any copy therefrom. If data is stored on a computer or a similar automatic data processing device, any printout or other output readable by sight is considered an "original”;
r) The term "duplicate" refers to a copy generated by copying the original or matrix, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques that accurately reproduce the original;
s) The term “telecommunication address” means any telephone number, either landline or cellular, or e-mail or internet address held or used by a person.
t) *The terms “spouse” and “extramarital partner” refer to a person having such status pursuant to family law.*
u) The term “Computer system” is any device or a group of mutually connected or linked devices, out of which one or more are automatically processing data on the basis of a programme,
v) The term “Computer data” denotes any presentation of facts, information or concepts in a form suitable for processing in a computer system, including any programme that is able to cause the computer system to execute certain function.

CHAPTER III - LEGAL ASSISTANCE AND OFFICIAL COOPERATION

Article 21

Legal Assistance and Official Cooperation

(1) All Courts in the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina shall be bound to provide legal assistance to the Court.
(2) All authorities of the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina shall be bound to maintain official cooperation with the Court, the Prosecutor and other bodies participating in criminal proceedings.

Article 22

Rendering Legal Assistance and Official Cooperation

(1) The Court shall file a request for legal assistance or official cooperation with the competent Court or authority.
(2) Such legal assistance or official cooperation shall be provided without compensation.
(3) Paragraphs 1 and 2 of this Article shall be applied to requests issued by the Prosecutor to the Prosecutor’s office or other authorities in the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina.

CHAPTER IV - JURISDICTION OF THE COURT

Section 1 - MATERIAL JURISDICTION AND COMPOSITION OF THE COURT

Article 23

Material Jurisdiction of the Court

(1) The Court shall have jurisdiction to:
   a) adjudicate in first instance criminal matters within the scope of its material jurisdiction set forth by law;
   b) decide appeals against first instance decisions;
   c) decide the reopening of criminal proceedings in such instances as provided for under this Code;
   d) decide any conflict of jurisdiction in criminal matters between courts of the Federation of Bosnia and Herzegovina and Republika Srpska and between courts of the Entities and the District of Brčko of Bosnia and Herzegovina;
   e) decide any issue relating to international and inter-Entity criminal law enforcement, including relations with Interpol and other international police institutions, such as decisions on the transfer of convicted persons, and on the extradition and surrender of persons, requested from any authority in the territory of Bosnia and Herzegovina, by foreign states or international courts or tribunals;
   f) carry out other tasks as stipulated by law.

(2) If a person committed several offenses and if the Court is competent with respect to one or more of them, while other courts are competent for the other offenses, in that case the priority shall be given to the trial before the Court.

Article 24

Composition of the Court

(1) The Panel of the Court's Criminal Division composed of three (3) judges shall adjudicate in first instance;
(2) An individual judge shall try all criminal cases for which the principal punishment of a fine or an imprisonment sentence of up to ten (10) years is prescribed by law.
(3) In the second instance, the Court's Appellate Division shall adjudicate by way of a Panel composed of three (3) judges.
(4) The Panel of the Court's Appellate Division consisting of three judges shall adjudicate as the third instance.
(5) The Court's Criminal Division shall decide the request for reopening of the proceedings by way of a Panel composed of three (3) judges.
(6) The preliminary proceedings judge, the preliminary hearing judge, the President of the Court and the Presiding Judge shall decide in the cases provided by this Code.
(7) In the Panel composed of three (3) judges the Court shall decide appeals against decisions when prescribed by this Code and make other decisions outside the main trial.

Section 2 - Separation and Joinder of proceedings

Article 25
Jinder of Poceedings

(1) The Court shall decide, as a rule, to conduct joint proceedings and render a single verdict if the same person is charged for several criminal offenses, or if several persons participated in commission of the same criminal offense.
(2) The Court may decide to conduct joint proceedings and render a single verdict even if several persons have been charged with several criminal offenses on the connection that there is a mutual relation between those criminal offenses.
(3) The Court may decide to conduct joint proceedings and render a single verdict if, before the same Court, separate proceedings are currently conducted against the same person for several criminal offenses or against several persons for the same criminal offenses.
(4) The judge or the Panel shall, by issuing a decision, decide on the joinder of the proceedings. No appeal shall be permissible against the decision ordering joinder of the proceedings or rejecting the motion for joinder of the proceedings.

Article 26

Separation of Proceedings

(1) Before the main trial is completed the Court may, for important reasons or for reasons of purposefulness, decide to separate the proceedings for certain criminal offenses or against certain accused persons and complete them separately.
(2) The decision on separation of the proceedings shall be made by the judge or the Panel upon a hearing of the parties and the defense attorney.
(3) No appeal shall be permissible against the decision ordering separation of the proceedings or rejecting the motion for separation of the proceedings.

Section 3 - TRANSFER OF JURISDICTION AND CONSEQUENCES OF LACK OF JURISDICTION

Article 27

Transfer of Jurisdiction

(1) The Court may transfer conduct of the proceedings for a criminal offense falling within its jurisdiction to the competent Court in whose territory the offense was committed or attempted. The conduct of the proceedings may be transferred not later than the day the main trial is scheduled to begin.
(2) The decision in terms of Paragraph 1 of this Article may also be rendered on the motion of the parties or the

defense attorney for all the offenses falling within the jurisdiction of the Court except for the offenses against the integrity of Bosnia and Herzegovina.

Article 27a

Transfer of jurisdiction for the criminal offences referred to in Chapter XVII of the CC of BiH

(1) If the proceedings are pending for the criminal offences referred to in Articles 171 through 183 of the Criminal Code Bosnia and Herzegovina, under its decision, the Court may transfer the proceedings to another court in whose area the criminal offence was attempted or committed, no later than by the time of scheduling the main trial, while taking into account the gravity of the criminal offence, the capacity of the perpetrator and other circumstances of importance in assessing the complexity of the case.

(2) The Court may render the decision referred to in Paragraph 1 of this Article also upon the motion of the parties or defence counsel, while at the stage of investigation, only upon the prosecution motion.

(3) The decision referred to in Paragraph 1 of this Article shall be rendered by the Panel referred to in Article 24(7) of the Code, composed of three Judges. No appeal from the decision of the Panel shall be allowed.

Article 28

Consequences of Lack of Jurisdiction

(1) The Court shall be cautious of its jurisdiction and as soon as it becomes aware that it is not competent, it shall issue a decision that it lacks jurisdiction and once such decision has taken legal effect, it shall forward the case to the competent court. However, it shall be bound to undertake those actions in the proceedings with respect to which a delay poses a risk.

(2) The Court to which the case is forwarded shall be bound to conduct proceedings and render a decision.

CHAPTER V - DISQUALIFICATION

Article 29

Reasons for Disqualification

A judge cannot perform his duties as judge if:

a) he is personally injured by the offense;

b) if the suspect or accused, his defense attorney, the Prosecutor, the injured party, his legal representative or power of attorney is his spouse or extramarital partner or direct blood relative to any degree whatsoever, and in a lateral line to the fourth degree, or relative by marriage to the second degree;

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

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

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

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

Article 30

Disqualification upon the Petition of the Parties or Defence Attorney

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

(2) The petition referred to in Paragraph 1 of this Article may be filed before the beginning of the main trial and if later the parties and the defense attorney learn of reasons for disqualification referred in Article 29 Item a) to e) of this Code, they can submit a petition as soon as they learn of these reasons.

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

(4) The parties or the defense attorney may seek to disqualify only a particular judge acting in the case.

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

Article 31

Disqualification Procedure

(1) As soon as a judge learns of any of the reasons for his disqualification referred to in Article 29 Item a) to e) of this Code, he shall be bound to interrupt any work on the case and inform the President of the Court. If the judge believes that circumstances referred to in Article 29 Item f) exist, he shall inform the President of the Court accordingly.

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

Article 32

Decision on the Petition for Disqualification

(1) The Court in plenary session shall decide the petition for disqualification referred to in Article 30 of this Code.

(2) Before rendering a decision on disqualification, a statement shall be taken from the judge or President of the Court and if required other investigations shall be conducted.
(3) No appeal shall be permissible against a decision upholding or rejecting the petition for disqualification.
(4) If the petition for disqualification referred to in Article 29 Item f) of this Code was submitted after the beginning of the main trial or if actions were taken contrary to the provision of Article 30 Paragraph 4 or 5 of this Code, the petition shall be rejected in whole or in part. The decision rejecting the petition shall be issued by the Panel. The judge whose disqualification is required may not participate in the issuance of that decision. No appeal shall be permissible against the decision rejecting the petition.

Article 33

Validity of Actions Taken after Filing of the Petition for Disqualification

When a judge learns that a petition has been filed for his disqualification, he shall be bound immediately to cease all work on the case and, if the issue is disqualification referred to in Article 29 Item f) of this Code, until issuance of a decision upon the petition he may take only those actions whose delay poses a risk.

Article 34

Disqualification of the Prosecutor and Other Participants in the Proceedings

(1) The provisions on disqualification of a judge shall accordingly be applied to the Prosecutor and persons authorized to represent the Prosecutor in the proceedings, record keepers, court interpreters and specialists as well as to expert witnesses, unless otherwise regulated.
(2) The Prosecutor shall decide the disqualification of persons who pursuant to the law are authorized to represent him in criminal proceedings. The Collegium of the Prosecutor's Office shall decide the disqualification of the Prosecutor.
(3) The Panel, Presiding judge or judge and until the indictment is filed the Prosecutor shall decide the disqualification of record keepers, court interpreters and specialists as well as expert witnesses.
(4) When authorized officials take investigative actions pursuant to this Code the Prosecutor shall decide their disqualification. An authorized official taking the actions shall decide the disqualification of the record keeper if the latter participates in such actions.

CHAPTER VI - PROSECUTOR

Article 35

Rights and Duties

(1) The basic right and the basic duty of the Prosecutor shall be the detection and prosecution of perpetrators of criminal offenses falling within the jurisdiction of the Court.
(2) The Prosecutor shall have the following rights and duties:
   a) as soon as he becomes aware that there are grounds for suspicion that a criminal offense has been committed, to take necessary steps to discover it and investigate it, to identify the suspect(s), guide and supervise the investigation, as well as direct the activities of authorized officials pertaining to the identification of suspect(s) and the gathering of information and evidence;
   b) to perform an investigation in accordance with this Code;
   c) to grant immunity in accordance with Article 84 of this Law
   d) to request information from governmental bodies, companies and physical and legal persons in Bosnia and Herzegovina;
   e) to issue summonses and orders and to propose the issuance of summonses and orders as provided under this Code;
   f) to order authorized officials to execute an order issued by the Court as provided by this Code;
   g) to establish facts necessary for deciding claim under property law in accordance with Article 197 and for forfeiture of property gain obtained by commission of criminal offense in accordance with Article 392 of this Law,
   h) to propose the issuance of a warrant for pronouncement of the sentence pursuant to Article 334 of this Code;
   i) to issue and defend indictment before the Court;
   j) to file legal remedies;
   k) to perform other tasks as provided by law.
(3) In accordance with Paragraphs 1 and 2 of this Article, all bodies participating in the investigative procedure are obligated to inform the Prosecutor on each undertaken action and to act in accordance with every Prosecutor's request.

Article 36

Taking Actions

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

Article 37

Giving Instructions

In order to exercise his rights and duties, the Prosecutor may, in concrete cases, give necessary instructions to the Prosecutor's offices in the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina.

Article 38

Abandoning Prosecution

The Prosecutor may abandon prosecution before the end of a main trial or during the proceedings before the Panel of the Appellate Division when provided by this Code.

CHAPTER VII - DEFENSE ATTORNEY

Article 39

Right to a Defense Attorney

(1) The suspect or accused shall be entitled to have a defense attorney throughout the course of the criminal proceedings.
(2) Only a lawyer who fulfils the conditions set forth in the Law on the Court of Bosnia and Herzegovina may be engaged as a defense attorney.
(3) If the suspect or accused does not himself hire a defense attorney, a defense attorney may be engaged for him by his legal representatives, spouse or extramarital partner, blood relatives in a direct line to any degree whatsoever, adoptive parents, adopted children, brothers, sisters or foster parents, if the suspect or the accused does not explicitly oppose it.
(4) The defense attorney must submit his entry for appearance on the occasion of taking his first action in the proceedings.

Article 40

Number of Defense Attorneys

(1) Several suspects or accused may have one common defense attorney unless the attorney has been appointed by the Court in accordance with Article 45 and Article 46 of this Code.
(2) A suspect or accused may have more than one defense attorneys, but only one of them shall have the status of primary defense attorney, and the suspect or accused shall decide which one shall it be. It shall be considered that the defense is represented when one of the defense attorneys is participating in the proceedings.

Article 41

Persons who May Not Act as Defense Attorneys

(1) An injured party, spouse or extramarital partner of the injured party or of the Prosecutor, or their blood relative in a direct line to whatever degree, in a lateral line to the fourth degree, or their relative by marriage to the second degree may not act as a defense attorney.
(2) A person who has been duly summoned to the main trial as a witness may not act as a defense attorney.
(3) A person who has acted as the judge or the Prosecutor in the instant case may not act as a defense attorney in the such case.

Article 42

Disqualification of a Defense Attorney

(1) Grounds for disqualification shall also exist for a defense attorney misusing a contact with the suspect or accused in custody to the effect that the suspect or accused commits a criminal offense or threatens the security of a prison where custody takes place.
(2) In the event referred to in Paragraph 1 of this Article, the suspect or accused shall be requested to hire another defense attorney within given deadline.
(3) If the suspect or the accused in cases of mandatory defense fails to retain a defense attorney or the defense attorney fails to be retained by the persons referred to in Article 39 Paragraph 3 of this Code, the procedure provided under Paragraph 4 of Article 45 of this Code shall be followed.
(4) In cases referred to in Paragraphs 2 and 3 of this Article, the new defense attorney shall be given enough time to prepare his defense for the suspect or the accused.
(5) During the disqualification, the defense attorney shall not be allowed to defend the suspect or the accused in another proceeding. The defense attorney shall not be allowed to defend other suspects or accused persons in the same or in separated proceedings.

Article 43

Procedure to Disqualify the Defense Attorney

(1) The decision for disqualification of a defense attorney shall be issued at a separate hearing attended by the Prosecutor, the suspect or the accused, the defense attorney and a representative of the Bar Association, to which the defense attorney belongs.
(2) The disqualification proceeding may also be conducted without the presence of the defense attorney, provided that

the defense attorney has been duly summoned and that the summons to the hearing contains a statement warning the defense attorney that the proceeding shall be conducted even without his presence. Records shall be kept about the hearing.

Article 44

Decision on Disqualification

(1) The decision on disqualification referred to in Article 43 of this Code shall prior to the commencement of the main trial be made by the Panel (Article 24 Paragraph 7), whereas at the main trial it shall be made by the judge or the Panel. In the proceeding before the Panel of the Appellate Division the decision on disqualification of the defense attorney shall be made by the Panel competent for ruling in the appellate proceedings.
(2) No appeal shall be permissible against the decision referred to in Paragraph 1 of this Article.
(3) If the defense attorney has been disqualified from the proceedings, he may be ordered to bear the costs generated as a result of the discontinuation of or delay in the proceedings.

Article 45

Mandatory Defense

(1) A suspect shall have a defense attorney at the first questioning if he is mute or deaf or if he is suspected of a criminal offense for which a penalty of long-term imprisonment may be pronounced.
(2) A suspect or accused must have a defense attorney while deciding the proposal for ordering pre-trial custody, throughout the pretrial custody.
(3) After an indictment has been brought for a criminal offense for which a prison sentence of ten (10) years or more may be pronounced, the accused must have a defense attorney at the time of the delivery of the indictment.
(4) If the suspect, or the accused in the case of a mandatory defense, does not retain a defense attorney himself, or if the persons referred to in Article 39, Paragraph 3, of this Code do not retain a defense attorney, the preliminary proceeding judge, preliminary hearing judge, the judge or the Presiding judge shall appoint him a defense attorney in the proceedings. In this case, the suspect or the accused shall have the right to a defense attorney until the verdict becomes final and, if a long-term imprisonment is pronounced for proceedings under legal remedies.
(5) If the Court finds it necessary for the sake of justice, due to the complexity of the case or the mental condition of the suspect or the accused or the other circumstances, it shall appoint an attorney for his defense.
(6) In the case of appointing a defense attorney, the suspect or the accused shall be asked to select a defense attorney from the presented list himself. If the suspect or the accused does not select a defense attorney from the presented list himself, the defense attorney shall be appointed by the Court ***following the order of the list of attorneys***.
7) If the requested attorney is unable to take over the defence, the Court shall request the next attorney from the list of attorneys. The Court shall inform the relevant bar association about the refusal of the requested attorney to assume the ex officio defence.

Article 46

Appointment of Defense Attorney for the Indigent Person

(1) When conditions are not met for the mandatory defense, and the proceedings are conducted for an offense for which a prison sentence of three (3) years may be pronounced or more or when the interests of justice so require, regardless of the prescribed punishment, a defense attorney shall be assigned to the accused at his request if, due to an adverse financial situation, he is not able to pay the expenses of the defense.
(2) The request for appointment of a defense attorney referred to in Paragraph 1 of this Article may be filed at any time during the criminal proceedings. The preliminary proceeding judge, preliminary hearing judge, the judge or the Presiding judge ***pursuant to Article 45, Paragraph 6*** shall appoint the defense attorney after the suspect or the accused was given an opportunity to select a defense attorney from the presented list.
(3) The Request for Appointment of a Defense Attorney due to adverse financial situation shall be recorded in the case file. After having established the financial situation of the suspect or accused, the Court shall issue a decision on the request without delay.

Article 47

The Right of a Defense Attorney to Inspect Files and Documentation

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

Article 48

Communication of a Suspect or Accused with Defense Attorney

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

Article 49

Dismissal of the Appointed Defense Attorney

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

Article 50

Defense Attorney Actions

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

CHAPTER VIII - ACTIONS AIMED AT OBTAINING EVIDENCE

Section 1 - SEARCH OF DWELLINGS OR OTHER PREMISES AND PERSONS

Article 51

Search of dwellings, other premises and personal property

(1) A search of dwellings and other premises of the suspect, accused or other persons, as well as his personal property outside the dwelling may be conducted only when there are sufficient grounds for suspicion that the perpetrator, the accessory, traces of a criminal offense or objects relevant to the criminal proceedings might be found there.
(2) Search of personal property pursuant to Paragraph (1) of this Article shall include a search of the computer systems, devices for automated and electronic data processing and mobile phone devices. Persons using such devices shall be obligated to allow access to them, to hand over the media with saved data, as well as to provide necessary information concerning the use of the devices. A person, who refuses to do so, may be punished under the provision of Article 65 Paragraph (5) of this Code.
(3) Search of computers and similar devices described in Paragraph (2) of this Article, may be conducted with the assistance of a competent professional.

Article 52

Search of Persons

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

Article 53

A Search Warrant

(1) The Court may issue a search warrant under the conditions provided by this Code.
(2) A search warrant may be issued by the Court on the request of the Prosecutor or on the request of authorized officials who have been approved by the Prosecutor.

Article 54

A Form of the Request for the Search Warrant

A request for the issuance of a search warrant may be submitted in writing or orally. If the request is submitted in writing, it must be drafted, signed and certified in the manner as defined in Article 55 Paragraph 1 of this Code. The request for the issuance of a search warrant may be submitted in accordance with Article 56 of this Code.

Article 55

Contents of the Request for a Search Warrant

(1) The request for a search warrant must contain:
   a) the name of the Court and the name and title of the applicant;
   b) facts indicating the likelihood that the persons, or traces and objects referred to in Article 51 Paragraph 1 of this Code shall be found at the designated or described place, or with a certain person;
   c) a request that the Court issue a search warrant in order to find the person in question or to forfeit the object.

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

Article 56

Oral Request for a Search Warrant

(1) An oral request for a search warrant may be filed when there is a risk of delay. An oral request for a search warrant may be communicated to a Court also by telephone, radio or other means of electronic communication.

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

Article 57

The Issuance of a Search Warrant

(1) If the preliminary proceedings judge determines that the request for a search warrant is justified, he shall grant the request and issue a search warrant.

(2) When the preliminary proceedings judge decides to issue a search warrant based upon an oral request, the applicant shall draft the warrant in accordance with Article 58 of this Code, and shall read it, verbatim, to the preliminary proceeding judge.

Article 58

Contents of a Search Warrant

A search warrant must contain:

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

Article 59

Time of the Execution of a Search Warrant

(1) A search warrant must be executed not later than 15 days from the day of its issuance and it must thereafter be returned to the Court without delay.

(2) A search warrant may be executed on any day of the week. It may be executed only between the hours of 6:00 A.M. and 9:00 P.M., unless the warrant expressly authorizes execution thereof at any time of the day or night, as provided in Article 55 Paragraph 2 this Code.

Article 60

Procedure of the Execution of a Search Warrant

(1) Prior to the commencement of a search an authorized official must give notice of his authority and of the purpose

of his arrival and show the warrant to the person whose property is to be searched or who himself is to be searched. If the authorized official is not thereafter admitted, he may resort to use of force in accordance with the law.

(2) In executing a search warrant that directs a search of a dwelling or other premises, an authorized official need not give notice to anyone of his authority and purpose, but may promptly enter the same, if such premises or vehicle is at the time unoccupied or reasonably believed by the authorized official to be unoccupied and if the search warrant expressly authorizes entry without notice.

(3) The occupant of the dwelling or other premises shall be called to be present at the search, and if he is absent, his representative or an adult member of the household or a neighbor shall be called to be present. If the occupant of the dwelling or other premises is not present, the search warrant shall be left in the premise subject to search, and the search shall be conducted without the presence of the occupant.

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

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

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

Article 61

Duties and authority of an Authorized Official

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

Article 62

Recording the Search

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

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

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

Article 63

Seizure of Objects under a Search Warrant

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

(2) If an object has been temporarily seized from a person, the receipt referred to in Paragraph 1 of this Article must be given to that person. If an object has been seized from a dwelling or other premises, such receipt must be given to the owner, tenant or user, as applicable.

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

(4) Upon receiving objects seized pursuant to a search warrant, the Court shall either: retain it in the custody of the Court pending further disposition; or direct that it be held in the custody of the applicant for the warrant or of the authorized official who executed it.

Article 64

Search without a Warrant or Witnesses

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

(2) An authorized official may search a person without a search warrant and without witnesses:
   a) when executing an apprehension warrant;
   b) when arresting the person;

c) when there is suspicion that the person possesses a firearm or knife;
d) when there is suspicion that he will conceal or destroy articles that are to be taken from him and used as evidence in criminal proceedings.

(3) After an authorized official conducts a search without a search warrant or without the presence of witnesses, he must immediately submit a report to the Prosecutor, who shall inform the preliminary proceeding judge on that. The report shall state the reasons why the search was completed without a warrant or witnesses.

Section 2 - SEIZURE OF OBJECTS AND PROPERTY

Article 65

Order for Seizure of Objects

(1) Objects that are the subject of seizure pursuant to the Criminal Code or that may be used as evidence in the criminal proceedings shall be seized temporarily and their custody shall be secured pursuant to a Court decision.
(2) The seizure warrant shall be issued by the preliminary proceedings judge on the motion of the Prosecutor or on the motion of authorized officials who have been approved by the Prosecutor.
(3) The seizure warrant shall contain the name of the Court, legal grounds for undertaking the action of seizure of objects, indication of the objects that are subject to seizure, the name of persons from whom objects are to be seized, place where the objects are to be seized and a timeframe within which the objects are to be seized.
(4) The authorized official shall seize objects on the basis of the issued warrant.
(5) Anyone in possession of such objects must turn them over at the request of the preliminary proceedings judge. A person who refuses to surrender articles may be fined in an amount up to 50.000 KM, and may be imprisoned if he persists in his refusal. Imprisonment shall last until the article is surrendered or until the end of criminal proceedings, but no longer than 90 days. An official or responsible person in a state body or a legal entity shall be dealt with in the same manner.
(6) The provisions of Paragraph 5 of this Article shall also apply to the data stored in devices for automated or electronic data processing. In obtaining such data, special care shall be taken with respect to regulations governing the maintenance of confidentiality of certain data.
(7) An appeal against a decision on fine or on imprisonment shall be decided by the Panel. An appeal against the decision on imprisonment shall not stay execution of the decision.
(8) When articles are seized, a note shall be made of the place where they were found, and they shall be described, and if necessary, establishment of their identity shall also be provided for in some other manner. A receipt shall be issued for articles seized.
(9) Forceful measures referred to in Paragraph 5 and 6 of this article may not be applied to the suspect or to persons who are exempt from the duty to testify.

Article 66

Seizure without the Seizure Warrant

(1) If there is a risk of delay, items referred to in Paragraph 1 of Article 65 of this Code may be seized even without the Court order. If the person affected by the search explicitly opposes the seizure of items, the Prosecutor shall, within 72 hours following the completion of the search, put forward to a preliminary proceedings judge a motion for a subsequent approval of the seizure of items.
(2) If the preliminary proceedings judge denies the Prosecutor's motion, the items seized may not be used as evidence in the criminal proceedings. The seized items shall be immediately returned to the person from whom they have been seized.

Article 67

Seizure of Mail and Telegrams and other Consignments

(1) Seizure may be performed with respect to the mail and telegrams that are addressed to or sent by the suspect or the accused and that are found with a company or persons engaged in postal and telecommunication activities.
(2) The seizure may also be performed with respect to the mail and telegrams referred to in Paragraph 1 of this Article when it can reasonably be expected that they shall serve as evidence in the proceedings.
(3) A seizure warrant for the temporary seizure of objects referred to in Paragraph 1 of this Article shall be issued by the preliminary proceedings judge on the motion of the Prosecutor.
(4) A warrant for the temporary seizure of objects may also be issued by the Prosecutor, should a delay pose a risk. The preliminary proceedings judge shall decide on its confirmation within 72 hours following the seizure.
(5) If the warrant fails to be confirmed pursuant to the provision of the Paragraph 4 of this Article, the seized objects may not be used as evidence in the proceedings.
(6) The measures undertaken as provided under this Article shall not apply to the mail exchanged between the suspect or the accused and his or her defense attorney.
(7) A seizure warrant referred to in Paragraph 3 of this Article shall include: information on the suspect or the accused whom the warrant concerns, the manner of execution of the warrant and the duration of the measure, and the company that will execute the measure imposed. The measures taken may not last longer than three (3) months, but for an important reason, the preliminary proceedings judge may extend the measures for three (3) additional months. The measures taken shall, however, be terminated as soon as the reasons for taking them cease to exist.
(8) If the interests of the proceedings permit, the suspect or the accused who is the subject of the measures referred to in Paragraph 1 shall be informed of those measures taken.

(9) Mail delivered shall be opened by the Prosecutor in the presence of two witnesses. In opening the mail, care shall be taken not to break the seal and the packaging and the address shall be kept. A record shall be made regarding the opening.
(10) The content of a part of the mail or the mail, as applicable, shall be communicated to the suspect or the accused or the recipient, and a part of the mail or the mail shall be handed over to that person, unless the Prosecutor, exceptionally, considers the transfer to be detrimental to the success of the criminal proceedings. If the suspect or the accused is absent, his family members shall be notified of the mail delivery. If the suspect or the accused does not request the delivery of the mail thereafter, the mail shall be returned to the sender.

Article 68

A Written Inventory of the Seized Objects

(1) After the seizure of objects and documentation, an inventory list of the temporarily seized objects and documents shall be made and a receipt concerning the objects and documents seized shall be written.
(2) If making an inventory list of objects and documentation is impossible, the objects and documentation shall be wrapped and sealed.
(3) Objects seized from a physical person or legal person may not be sold, given as a gift or otherwise transferred.

Article 69

Right to Appeal

(1) The person from whom objects or documentation are seized shall have the right to appeal.
(2) The filing of an appeal referred to in Paragraph 1 of this Article shall not stay the temporary seizure of objects.
(3) The appeal referred to in Paragraph 1 of this Article shall be decided by the Panel referred to in Article 24, Paragraph 6 of this Code. *(Note: Paragraph 3 is missing in version published in Official Gazette)*
(4) The Prosecutor has a right to appeal against the decision of the Court by which the seized objects and documents are to be returned.

Article 70

Safekeeping of the Seized Objects and Documentation

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

Article 71

Opening and Inspection of the Seized Objects and Documents

(1) The opening and inspection of the seized objects or documentation shall be done by the Prosecutor.
(2) The Prosecutor shall be bound to notify the person or the business enterprise from which the objects were seized, the preliminary proceedings judge and the defense attorney about the opening of the seized objects or documentation.
(3) When opening and inspecting the seized objects and documents, attention shall be paid that no unauthorized person gets the insight into their contents.

Article 72

Order Issued to a Bank or to Another Legal Person

(1) If there are grounds for suspicion that a person has committed a criminal offense related to acquisition of material gain, the preliminary proceedings judge may at the motion of the Prosecutor issue an order to a bank or another legal person performing financial operations to turn over information concerning the bank accounts of the suspect or of persons who are reasonably believed to be involved in the financial transactions or affairs of the suspect, if such information could be used as evidence in the criminal proceedings.
(2) Court may, on the motion of the Prosecutor, order that other necessary measures referred to in Article 116 of this Code be taken in order to enable the detection and finding of the illicitly gained property and collection of evidence thereupon.
(3) In case of an emergency, any of the above mentioned measures may be ordered by the Prosecutor on the basis of an order. The Prosecutor shall immediately inform the Court who shall issue a court warrant within 72 hours. The Prosecutor shall seal the obtained information until the issuance of the court order. In case the Court fails to issue the said order, the Prosecutor shall be bound to return such information without accessing it.
(4) The Court may issue a decision ordering a legal or physical person to temporarily suspend a financial transaction that is suspected to be a criminal offense or intended for the commission of the criminal offense, or suspected to serve as a disguise for a criminal offense or disguise of a gain obtained by a criminal offense.
(5) The decision referred to in the previous Paragraph shall order that the financial resources designated for the transaction referred to in Paragraph 4 of this Article and cash amounts of domestic or foreign currency be temporarily seized pursuant to Article 65 Paragraph 1 of this Code and be deposited in a special account and kept until the end of the proceedings or until the conditions for their return are met.
(6) An appeal may be filed against a decision referred to in Paragraph 4 of this Article by the Prosecutor, the owner of the cash in domestic or foreign currency, the suspect, the accused and the legal or physical person referred to in Paragraphs 4 and 5 of this Article.

Article 72a

Order to the telecommunication operator

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

Article 73

Temporary Seizure of Illicitly Gained Property and Arrest in Property

(1) At any time during the proceedings, the Court may, upon the motion of the Prosecutor, issue a temporary measure seizing the illicitly gained property under the Criminal Code of Bosnia and Herzegovina, arrest in property or shall take other necessary temporary measures to prevent any use, transfer or disposal of such property.
(2) If there is a risk of delay, an authorized official may temporarily seize property referred to in Paragraph 1 of this Article, may carry out an arrest in property or take other necessary temporary measures to prevent any use, transfer or disposal of such property. An authorized official shall immediately inform the Prosecutor about the measures taken and the preliminary proceedings judge shall decides about the measures within 72 hours following the undertaking of the measures.
(3) If the approval is denied the measures taken shall be terminated and the objects or property seized returned immediately to the person from whom they have been seized.

Article 74

Return of the Seized Property

Objects that have been seized during the criminal proceedings shall be returned to the owner or possessor once it becomes evident during the proceedings that their retention runs contrary to Article 65 of this Code and that there are no reasons for their seizure (Article 391).

Section 3 - PROCEDURE OF DEALING WITH SUSPICIOUS OBJECTS

Article 75

Posted and Published Description of the Suspicious Objects

(1) If another person's object is found with the suspect or the accused and it is not known to whom it belongs, the authorized body conducting the proceedings shall describe the object and post the description on the notice board of the municipality of the residence of the suspect or the accused and the municipality where the criminal offense has been committed. The notice shall invite the owner to come forward within one (1) year from the date of the posting; otherwise, the object will be sold. The proceeds from the sale shall be credited to the Bosnia and Herzegovina Budget.
(2) If the object is of high value, a description may also be published in a daily newspaper.
(3) If the object is perishable or its safekeeping would entail significant costs, the object shall be sold pursuant to the provisions governing the judicial enforcement procedure and the proceeds shall be delivered for safekeeping to the Court.
(4) The provision of Paragraph 3 of this Article shall also be applied when the object belongs to a runaway or an unknown perpetrator of a criminal offense.

Article 76
Decisions on Suspicious Objects

(1) If, within one (1) year, no one comes forward as the owner of the object or of the proceeds from the sale of the object, a decision shall be taken that the object shall become property of Bosnia and Herzegovina or that the proceeds shall be credited to the Bosnia and Herzegovina Budget.
(2) The owner of the object shall be entitled to request in civil proceedings to repossess the object or to possess the proceeds from the sale of the object. The statute of limitations with respect to this right shall start running from the date of the posting or publication, as appropriate.

Section 4 - QUESTIONING OF THE SUSPECT

Article 77

Basic Rules on Questioning

(1) The suspect under investigation shall be questioned by the Prosecutor or an authorised official.
(2) The questioning of the suspect must be done with full respect to the personal integrity of the suspect. During questioning of the suspect it shall be forbidden to use force, threat, fraud, narcotics or other means that may affect the freedom of decision-making and expression of will while giving a statement or confession.
(3) If actions were taken contrary to the provision of Paragraph (2) of this Article, the decision of the Court may not be based on the statement of the suspect.

Article 78

Instructing the Suspect on His Rights

(1) At the first questioning the suspect shall be asked the following questions: his name and surname; nickname if he has one; name and surname of his parents; maiden name of his mother; place of birth; place of residence; date, month and year of birth; ethnicity and citizenship; identification number of Bosnia and Herzegovina citizen; profession; family situation; is he literate; completed education; has he served in the army, and if so, when and where; whether he has a rank of a reserve officer; whether he is entered in the military records and if yes with which authority in charge of defense affairs; whether he has received a medal; financial situation; previous convictions and, if any, reasons for the conviction; if convicted whether he served the sentence and when; are there ongoing proceedings for some other criminal offense; and if he is a minor, who is his legal representative. The suspect shall be instructed to obey summonses and to inform the authorized officials immediately about every change of an address or intention to change his residence, and the suspect shall also be instructed about consequences if he does not act accordingly.
(2) At the beginning of the questioning, the suspect shall be informed of the charge against him, the grounds for the charge and he shall be informed of the following rights:
   a) the right not to present evidence or answer questions;
   b) the right to retain a defense attorney of his choice who may be present at questioning and the right to a defense attorney at no cost in such cases as provided by this Code;
   c) the right to comment on the charges against him, and to present all facts and evidence in his favor and that, if he does so in the presence of the defence attorney, the statement made is allowed as evidence at the main trial and may, without his consent, be read and used at the main trial;
   d) that during the investigation, he is entitled to study files and view the collected items in his favor unless the files and items concerned are such that their disclosure would endanger the aim of investigation;
   e) the right to an interpreter service at no cost if the suspect does not understand the language used for questioning.
(3) The suspect may voluntarily waive the rights stated in Paragraph 2 of this Article but his questioning may not commence unless his waiver has been recorded officially and signed by the suspect. To waive the right to a defense attorney shall not be possible for the suspect under any circumstances in case of a mandatory defense under this Code.
(4) In the case when the suspect has waived the right to a defense attorney, but later expressed his desire to retain one, the questioning shall be immediately suspended and shall resume when the suspect has retained or has been appointed a defense attorney, or if the suspect has expressed a wish to answer the questions.
(5) If the suspect has voluntarily waived the right not to answer the questions asked, he must be allowed to present views on all facts and evidence that speak in his favor.
(6) If any actions have been taken contrary to the provisions of this Article, the Court's decision may not be based on the statement of the suspect.

Article 79

Manner of Questioning of the Suspect

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

of the authorized official and the suspect.

Article 80

Questioning through an Interpreter

The suspect shall be questioned through an interpreter in cases referred to in Article 87 of this Code.

Section 5 - EXAMINATION OF WITNESSES

Article 81

Summons to Examine Witnesses

(1) Witnesses shall be heard when there is likelihood that their statements may provide information concerning the offense, perpetrator or any other important circumstances.
(2) The Prosecutor or the Court shall serve the writ of summons. Any summoning of a minor under 16 as the witness shall be done through the parents or legal representative, except for the cases where this is not possible due to a need to act urgently, or other circumstances as the Prosecutor or the Court considers important.
(3) Witnesses who cannot answer a summons because of age, illness or serious physical handicaps may be questioned at their residence, hospital or any other place.
(4) Witnesses shall be notified in the summons of their being summoned as a witness, of where and when to appear upon being summoned, as well as what consequences shall follow if the witness fails to appear.
(5) Should the witness fail to appear or justify his absence the Court may impose upon him a fine an amount up to 5.000 KM, or may order the apprehension of the witness.
(6) The apprehension of a witness shall be performed by the Judicial Police. Exceptionally the order may be given by the Prosecutor if a duly summoned witness does not appear or justify his absence, provided that this order must be confirmed by the preliminary proceedings judge within 24 hours following the issuance of the order.
(7) Should the witness after being warned of the consequences, without legal reasons refuse to testify, upon the proposal of the Prosecutor, the Court may issue a decision imposing on the witness a fine in an amount up to 30.000 KM. An appeal against this decision shall be allowed, but shall not stay the execution of the decision.
(8) Appeals against a decision under Paragraph (5) and (7) of this Article shall be decided by the Panel (Article 24, Paragraph 7).

Article 82

Persons Not To Be Heard As Witnesses

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

Article 83

Persons Allowed to Refuse to Testify

(1) The following persons may refuse to testify:
   a) the spouse or the extramarital partner of the suspect or accused;
   b) *a parent or child, an adoptive parent or adopted child of the suspect or accused*;
   c) *(deleted)*.
(2) The authority conducting the proceedings must caution the persons referred to in Paragraph 1 of this Article, prior to their hearing or as soon as it learns about their relation to the accused, about the right to refuse to testify. The caution and answer must be entered in records.
(3) A person who has grounds to refuse to testify against one of the suspects or accused shall be relieved from the duty to testify against other codefendants if his testimony, by its nature, cannot be restricted solely to the other suspects or accused.
(4) If a witness has been heard whose testimony is inadmissible and he has not been cautioned thereof or he has not explicitly waived that right or the caution and the waiving has not been entered into records, the Court decision shall not be based on such a testimony.

Article 84

Right of the Witness to Refuse to Respond

(1) The witness shall be entitled to refuse to answer such questions with respect to which a truthful reply would result

in the danger of bringing prosecution upon himself.

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

Article 85

Method of Examination, Confrontation and Identification

(1) Witnesses shall be examined individually and in the absence of other witnesses.
(2) At all times during the proceedings, witnesses may be confronted with other witnesses or with the suspect or accused.
(3) If necessary to ascertain whether the witness knows the person or object, first the witness shall be required to describe him/her/it or to indicate distinctive signs, and then a line-up of persons shall follow, or the object shall be shown to the witness, if possible among objects of the same type.
(4) If it is not possible to make an identification in accordance with Paragraph (3) of this Article, the identification shall be done by viewing a photograph of that person or objects placed amongst photographs of persons unknown to the witness or amongst objects of the same kind.

Article 86

Course of the Examination of a Witness

(1) The witness must answer orally.
(2) Before examination, the witness shall be called upon to tell the truth and not to withhold anything and then he shall be cautioned that giving false testimony is criminal offense. The witness shall be cautioned on his right not to answer questions listed in Article 83, Paragraph (1) of this Law and this caution shall be entered into record.
(3) Subsequently, the witness shall be asked the following questions: his name and surname, names of father and mother, occupation, residence, place and date of birth, and relation to the suspect, accused or injured party. The witness must also be cautioned that it is his duty to inform the Prosecutor or the Court regarding a change of address or residence.
(4) When hearing a minor and, in particular if the minor was victimized by the criminal offense, the participants in the proceedings shall be obligated to act with circumspection in order not to have an adverse effect on the minor's mental condition. The minor shall be heard with assistance of a pedagogue or other professional.
(5) It shall not be allowed to ask an injured party about his sexual experience prior to commission of the criminal offense and if such a question has already been posed, the Court decision cannot be based on such statement.
(6) Given age, physical and mental condition, or other justified reasons the witness may be examined using technical means for transferring image and sound in such manner as to permit the parties and the defense attorney to ask questions although not in the same room as the witness. Am expert person may be assigned for the purpose of the examination.
(7) After general questions the witness shall be invited to present everything that he knows about the case and then the witness shall be asked questions aimed at checking, supplementing and explaining his statement. When hearing the witness it shall be prohibited to practice deceit or ask any questions that already contain the desired answer.
(8) The witness shall be asked how does he know the facts he is testifying about.
(9) Witnesses may be confronted if their testimony disagrees with respect to important facts. The confronted witnesses shall be examined individually about each circumstance that their testimony disagrees about and their answer shall be entered into records. Only two witnesses at a time may be confronted.
(10) The injured party being examined as the witness shall be asked about his desires with respect to satisfaction of a property claim in the criminal proceedings.

Article 87

Examination of a Witness through Interpreter

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

Article 88

Oath or Affirmation of a Witness

(1) The Court may request the witness to swear an oath or affirmation prior to testimony.
(2) Prior to the main trial, the witness may swear the oath or affirmation only if there is a fear that due to illness or other reasons he shall not appear at the main trial. The oath or affirmation shall be taken before the judge or the Presiding judge. The reason for swearing the oath or affirmation shall be entered into the records.

(3) The text of the oath or affirmation is as follows: "I swear/ I affirm that I shall speak the truth about everything I am going to be asked before this Court and that I shall withhold nothing known to me."
(4) The oath or affirmation shall be taken orally by reading its text or with a confirmation after the text of the oath or affirmation has been read by the judge or the Presiding judge. Mute witnesses who can read and write shall take the oath or affirmation by signing the text of the oath or affirmation, whereas deaf or mute witnesses who cannot read or write shall take the oath or affirmation through an interpreter.
(5) The refusal and reasons for refusal of the witness to take an oath or affirmation shall be entered into records.

Article 89

Individuals who may not take the Oath or Affirmation

The individuals who may not take the oath or affirmation are persons who are minors at the time of examination, those for whom it has been proved that there is a grounded suspicion that they have committed or participated in commission of an offense for which they are being examined or those who due to their mental condition are unable to comprehend the importance of the oath or affirmation.

Article 90

Audio or Audio-Visual Recording of the Examination of Witnesses

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

Article 91

Protected Witness

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

Section 6 - CRIME SCENE INVESTIGATION AND RECONSTRUCTION OF EVENTS

Article 92

Conducting a Crime Scene Investigation

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

Article 93

Reconstruction of Events

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

Article 94

Aid of an Expert Witness or a Specialist

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

Section 7 - EXPERT EVALUATION

Article 95

Ordering Expert Evaluation

Expert evaluation shall be ordered when the findings and opinion of a person possessing the necessary specialized knowledge are required to establish or evaluate some important facts. If scientific, technical or other specialized knowledge will assist the Court in understanding the evidence or determining a facts, an expert as a special witness may testify by providing his findings on the facts and opinion that contains the evaluation of the facts.

Article 96

Order for Expert Evaluation

(1) Expert evaluation shall be requested in writing by the Prosecutor or Court. The request shall indicate the facts in

regard of which the evaluation is conducted.

(2) If there is a specialized institution for performing the particular kind of expert evaluation, or if the expert evaluation could be performed by a state body, such expert evaluation, especially if it is complicated, shall as a rule be assigned to that institution or body. The institution or body shall name one or more specialists who will make the expert evaluation.

Article 97

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

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

Article 98

Persons Who Cannot be engaged as Experts

A person shall not be engaged as an expert who may not testify as a witness (Article 82), who has been exempted from the duty to testify (Article 83), as well as the injured party. If nevertheless such person is engaged, the Court shall not base its decision on his findings and opinion.

Grounds for disqualification of experts (Article 34) also exist when the expert is employed in the same agency or business enterprise or other private legal entity as the suspect, the accused or injured party, or when the expert is employed by the suspect, the accused or the injured party.

As a rule, a person who has been questioned as a witness shall not be engaged as an expert.

Article 99

Expert Evaluation Procedure

(1) The body ordering expert evaluation shall manage the expert evaluation. Before commencement of the presentation of expert testimony the expert shall be invited to carefully study the subject of his testimony, and shall precisely present everything he knows and finds, and shall be invited to present his opinion without bias and in conformity with the rules of his science or art. He shall be specifically warned that presentation of false testimony is a criminal offense.

(2) An expert witness shall rely solely on evidence presented to him by authorized officials, the Prosecutor or the Court in forming opinions or inferences on the subject being examined. An expert witness may testify only as to a matter derived from first hand knowledge, unless the information he is relying on in forming his opinion and inferences, is the type of information reasonably relied on by other experts in the same field.

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

Article 100

Examination of Items Being Evaluated

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

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

Article 101

Presentation of Opinion and Findings

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

Article 102

Expert Evaluation in a Specialized Institution or State Body

(1) If a specialized institution or a body is commissioned to make the expert evaluation, the Court or the Prosecutor shall caution the institution or the body conducting the evaluation that persons who provide the findings and opinion may not include a person as referred to in Article 98 of this Code or a person for whom there are grounds for disqualification from expert evaluation as provided by this Code, and the Court or the Prosecutor shall warned them of the consequences of giving a false finding or opinion.

(2) The materials necessary for the expert evaluation shall be made available to the specialized institution or state agency; if necessary, the procedure described in the provision of Article 99 of this Code shall be followed.

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

Article 103

Examination, Autopsy and Exhumation of Corpse

(1) The examination and autopsy of the corpse shall be done if in a case of death there is suspicion that the death was caused by a criminal offence or that it is related to the commission of a criminal offence. If the corpse has already been buried, the exhumation of such corpse shall be ordered for the purpose of examination and autopsy.
(2) During the examination and autopsy of a corpse, all the necessary measures of identification of a corpse shall be taken and to that end in particular the data on external and internal bodily characteristics of the corpse shall be described.

Article 104

Examination and Autopsy of the Corpse outside a Specialized Medical Facility

(1) Examination and autopsy of the body shall be performed by a specialized medical facility.
(2) If an expert evaluation is not made in a specialized medical facility, examination and autopsy of a corpse shall be done by a physician-forensic specialist. The Prosecutor shall conduct the expert evaluation and shall make a report on it. The findings and opinion of the expert shall be integral part of the report.
(3) The physician who normally treated the deceased may not be given the task of performing the autopsy. However, the physician who treated the deceased may be questioned as a witness in order to provide an explanation on the course and the circumstances of the illness of the deceased.

Article 105

Forensic Report on Examination and Autopsy

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

Article 106

Examination and Autopsy of Fetus or Newborn Infant

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

Article 107

Toxicological Tests

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

Article 108

Expert Evaluation of Physical Injuries

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

Article 109

Physical Examination of the Accused

(1) A physical examination of a suspect or the accused shall be performed, even without his consent, if necessary to determine the facts important for criminal proceedings. A physical examination of other persons may be performed without their consent only when it has to be established that a specific trace or other consequence of a criminal offense may be found on their body.
(2) In accordance with the rules of medical science, blood and other medical procedures may be taken for analysis and

determination of other facts important to criminal proceedings even without the consent of the person being examined, if it would not pose any harm to the health of person examined.

(3) A physical examination of the suspect or the accused shall be ordered by the Court, and if the delay poses a risk then it shall be ordered by the Prosecutor.

(4) It shall be forbidden to perform a medical intervention on the suspect, accused or witness or to administer to them agents that would affect their will in giving testimony.

(5) If actions are taken contrary to the provisions of this Article, the decision of the Court may not be based on the evidence obtained in this manner.

Article 110

Psychiatric Expert Evaluation

(1) If a suspicion arises that the accountability of the suspect or the accused has diminished, or that the suspect or the accused has committed a criminal offense due to the drug or alcohol addiction, or that he is not capable to participate in the proceeding due to the mental disturbance, expert evaluations consisting of examination of the accused by a psychiatrist shall be ordered.

(2) If during the investigation the suspect refuses to voluntarily undergo the psychiatric examination for the purpose of an expert witness evaluation or if according to the opinion of the expert witness an extended observation is required, the suspect shall be committed to the appropriate medical institution for the purpose of psychiatric examination. A decision to that effect shall be rendered by the preliminary proceedings judge on the motion of the Prosecutor. The observation may not exceed two (2) months.

(3) Should experts establish that the mental condition of the suspect or accused is disturbed, they shall define the nature, type, degree and duration of the disorder and shall furnish their opinion concerning the type of influence this mental state has had and still has on the comprehension and actions of the accused as well as concerning whether and in what degree the disturbance of his mental state existed at the time when the criminal offense was committed.

(4) If a suspect or accused who is in pretrial custody is sent to a medical institution, the judge shall inform that institution of the reasons why pretrial custody was ordered so that the necessary measures can be taken to achieve the purposes of custody.

(5) The time, which a suspect or an accused spent in a medical institution, shall be included in the time of custody or credited against his sentence, should a sentence be pronounced.

Article 111

Audit of Business Books

(1) If an audit of business books is required, the body before which the proceedings are conducted shall indicate to the auditors the line of inquiry and the scope of the audit and other facts and circumstances that are to be determined.

(2) If the books of a business enterprise, other legal entity or an individual entrepreneur first need to be put in order before being audited, the costs of putting books in order shall be charged to their account.

(3) The decision to put books in order shall be made by the authority conducting proceedings on the basis of the written documented report of the experts ordered to audit the business books. The decision shall also indicate the amount that the legal entity or the individual entrepreneur must deposit with that authority as an advance against the cost of putting its books in order.

(4) The costs, if their amount has not been advanced, shall be collected and credited to the authority that has already paid the costs and compensated the experts.

Article 112

DNA Analysis

DNA analysis may be made exclusively by an ***institution in possession of necessary expertise in terms of staff and equipment to do a forensic DNA analysis*** in this type of expert evaluation.

Article 113

When to Make a DNA analysis

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

Article 114

Use of DNA Analysis Results in Other Criminal Proceedings

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

Article 115

Registry of DNA Analyses and Data Protection

(1) All DNA analyses shall be kept ***in a special registry at the Ministry of Security of Bosnia and Herzegovina.***

(2) The Minister of Justice of BiH shall enact the Book of Rules on a manner of collecting and taking specimen from a biological material for the needs of a DNA analysis in the criminal procedure, the manner of packing biological material, preservation, processing and storing specimen and results of the DNA analysis in Bosnia

and Herzegovina.

(3) Protection of data obtained from the analyses referred to in Paragraph 1 of this Article shall be regulated under a separate law.

CHAPTER IX - SPECIAL INVESTIGATIVE ACTIONS

Article 116

Types of Special Investigative Actions and Conditions of Their Application

(1) If evidence cannot be obtained in another way or its obtaining would be accompanied by disproportional difficulties, special investigative measures may be ordered against a person against whom there are grounds for suspicion that he has committed or has along with other persons taken part in committing or is participating in the commission of an offense referred to in Article 117 of this Code.

(2) Measures referred to in Paragraph 1 of this Article are as follows:
   a) surveillance and technical recording of telecommunications;
   b) access to the computer systems and computerized data processing;
   c) surveillance and technical recording of premises;
   d) covert following and technical recording of individuals, means of transport and objects related to them;
   e) use of undercover investigators and informants;
   f) simulated and controlled purchase of certain objects and simulated bribery;
   g) supervised transport and delivery of objects of criminal offense.

(3) Measures referred to in Item a) of Paragraph 2 of this Article may also be ordered against persons against whom there are grounds for suspicion that he will deliver to the perpetrator or will receive from the perpetrator of the offenses referred to in Article 117 of this Code information in relation to the offenses, or grounds for suspicion that the perpetrator uses a telecommunication device belonging to those persons.

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

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

(6) Undercover investigator is specially trained authorised official who investigates under his or her changed identity. The undercover investigator may participate in legal transactions under his or her changed identity. If it is necessary to establish and keep the identity, appropriate documents may be issued, changed or used.

Article 117

Criminal Offenses as to Which Undercover Investigative Measures May Be Ordered

Measures referred to in Paragraph 2 of Article 116 of this Code may be ordered for following criminal offenses:
   a) criminal offenses against the integrity of Bosnia and Herzegovina;
   b) criminal offenses against humanity and values protected under international law;
   c) criminal offenses of terrorism;
   d) criminal offenses for which, pursuant to the law, a prison sentence of three (3) years or more may be pronounced.

Article 118

Competence to Order the Measures and the Duration of the Measures

(1) Measures referred to in Article 116 Paragraph 2 of this Code shall be ordered by the preliminary proceedings judge in an order upon the properly reasoned motion of the Prosecutor containing: the data on the person against which the measure is to be applied, the grounds for suspicion referred to in Paragraphs 1 or 3 of Article 116 of this Code, the reasons for its undertaking and other important circumstances necessitating the application of the measures, the reference to the type of required measure and the method of its implementation and the extent and duration of the measure. The order shall contain the same data as those featured in the Prosecutor's motion as well as ascertainment of the duration of the ordered measure.

(2) Exceptionally, if a written order cannot be received in due time and if delay poses a risk, the execution of a measure referred to in Article 116 of this Code may commence on the basis of a verbal order pronounced by the preliminary proceeding judge. The written order of the Court must be obtained within 24 hours following the issue of the verbal order.

(3) Measures referred to in Items a), through d) and g) of Paragraph 2 of Article 116 of this Code may last up to one (1) month, while on account of particularly important reasons the duration of such measures may upon the properly reasoned motion of the Prosecutor be prolonged for a term of another month, provided that the measures referred to in items a), b) and c) last up to six (6) months in total, while the measures referred to in items d) and g) last up to three (3) months in total. The motion as to the measure referred to in Item f) of Paragraph 2 of Article 116 may refer only to a single act, whereas the motion as to each subsequent measure against the same person must contain a statement of reasons justifying its application.

(4) The order of the preliminary proceeding judge and the motion of the Prosecutor referred to in Paragraph 1 of this Article shall be kept in a separate envelope. By compiling or transcribing the records without making references to

the personal data therein about the undercover investigator and informant, or in another appropriate way, the Prosecutor and the preliminary proceedings judge shall prevent unauthorized officials as well as the suspect and his defense attorney from establishing the identity of the undercover investigator and of informant.

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

(6) The orders referred to in Paragraph 1 of this Article shall be executed by the police authorities. The companies performing the transmission of information shall be bound to enable the Prosecutor and police authorities to enforce the measures referred to in Item a) of Paragraph 2 of Article 116 of this Code.

Article 119

Materials Received through the Measures and Notification of the Measures Undertaken

(1) Upon the completion of the application of the measures referred to in Article 116 of this Code, all information, data and objects obtained through the application of the measures as well as a report must be submitted by police authorities to the Prosecutor. The Prosecutor shall be bound to provide the preliminary proceedings judge with a written report on the measures undertaken. On the basis of the submitted report the preliminary proceedings judge shall evaluate the compliance with his order.

(2) Should the Prosecutor refrain from prosecution, or should the data and information obtained through the application of the ordered measures not be needed for the criminal proceedings, they shall be destroyed under the supervision of the preliminary proceedings judge, of which event he shall make separate records. The person against whom any of the measures referred to in Article 116 Paragraph 2 of this Code were undertaken, shall be notified of the undertaking of the measures, the reasons for their undertaking, information stating that the received material did not constitute sufficient grounds for criminal prosecution and was thereafter destroyed.

(3) The preliminary proceedings judge shall forthwith and following the undertaking of the measures referred to under Article 116 of this Code inform the person against whom the measures were undertaken. That person may request from the Court a review of legality of the order and of the method by which the order was enforced.

(4) Data and information received through the undertaking of the measures referred to in Paragraph 2 of Article 116 of this Code shall be stored and kept as long as the court file is being kept.

Article 120

"Incidental Findings"

No data or information received through the undertaking of actions referred to in Article 116 of this Code shall be used as evidence if they are not related to a criminal offense referred to in Article 117 of this Code.

Article 121

Acting Without the Court Order or Beyond Its Extent

If the measures referred to in Article 116 of this Code have been undertaken without the order of the preliminary proceedings judge or against the same, the Court cannot base its decision on the data or evidence thereby obtained.

Article 122

Admissibility of Evidence Obtained through the Undertaking of Special Measures

Technical recordings, documents and objects obtained as provided under the conditions and in the manner prescribed by this Code may be used as evidence in the criminal proceedings. The undercover investigator and informant referred to in Article 116 Paragraph 2 Item e) and the persons who have undertaken the measures referred to in Article 116 Paragraph 2 Item f) of this Code may be questioned as witnesses or as protected witnesses on the course of the undertaking of the measures or on the other significant circumstances..

CHAPTER X

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

Section 1 - GENERAL PROVISIONS

Article 123

Types of Measures

(1) Measures that may be taken against the accused in order to secure his presence and successful conduct of the criminal proceedings shall be: summons, apprehension, ***prohibiting measures***, bail and custody.

(2) When deciding which of the above mentioned measures is to be applied, the competent body shall meet certain conditions for application of the measures, attempting not to apply more severe measure if the same effect can be achieved by application of a less severe measure.

(3) These measures shall also be cancelled *ex officio* immediately after the reasons for their application cease to exist, or they shall be replaced with a less severe measure when the conditions for it are created.

(4) The provision of this Chapter shall be applied to the suspect as well, as appropriate.

Section 2 – SUMMONS

Article 124
Service and Contents of Summons

(1) The presence of the suspect for the execution of an action in the criminal proceedings shall be ensured through the summons.
(2) A summons shall be served by delivering a sealed written summons containing the following: the name of the body issuing the summons, the first and last name of the accused, the criminal offense with which he is charged, the place where the accused is to appear, the date and hour when he is to appear, an indication that he is being summoned as accused, and a warning that he will be apprehended should he fail to appear, that he must immediately inform the Prosecutor or the Court of the change of the address and of the intention to change the residence, the official stamp, and the signature of the Prosecutor or the judge issuing the summons.
(3) The first time an accused is summoned, he shall be instructed of his right to engage a defense attorney who may be present at his questioning.
(4) The first time a suspect is summoned, in the summons he shall be informed about his rights as specified in Article 78 of this Code. Before the issuance of the indictment, the suspect shall be summoned by the Prosecutor.
(5) If the accused is unable to answer the summons because of illness or other impediment that cannot be removed, he shall be examined where he is or shall be provided transportation to the Courthouse or any other place where the proceeding is to be conducted.

Section 3 - APPREHENSION

Article 125
Order for Apprehension

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

Section 4 - *PROHIBITING MEASURES*

Article 126
House Arrest and Travel Ban

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

Article 126a
Other Prohibiting Measures

(1) When the circumstances of the case so indicate, the Court may order one or more of the following prohibiting measures:

a) prohibition from performing certain business or official activities,
b) prohibition from visiting certain places or areas,
c) prohibition from meeting with certain persons,
d) order to report occasionally to a specified body, and
e) temporary withdrawal of the driver's license.

(2) Other prohibiting measures referred to in Paragraph (1) of this Article may be imposed in addition to the house arrest as well as in addition to a travel ban referred to in Article 126 of this Code, or as separate measures.

Article 126b
Imposing the Prohibiting Measures

(1) The Court may impose the house arrest, travel ban and other prohibiting measures by a reasoned decision upon the proposal of a party or the defense attorney.
(2) When deciding on custody, the Court may impose the house arrest, travel ban and other prohibiting measures ex officio, instead of ordering or prolonging the custody.

(3) In the decision imposing the prohibiting measures, the suspect or accused shall be warned that the custody may be ordered against him or her if he/she violates the obligation under the imposed measure.

(4) In the course of an investigation, the prohibiting measures shall be ordered and revoked by the preliminary proceedings judge and after the issuance of an indictment – by a preliminary hearing judge and after the case has been referred to the judge or the Panel for the purpose of scheduling the main trial – by that judge or the presiding judge.

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

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

(7) A decision ordering, extending or revoking the prohibiting measures may be appealed by a party or the defense attorney, while the Prosecutor may also appeal a decision rejecting his motion for the ordering of a measure. An appeal shall be decided by the Panel referred to in Article 24 Paragraph (6) *of this Code within three days of receipt of the appeal. An appeal shall not stay the execution of decision.*

Article 126c
Content of the Prohibiting Measures

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

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

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

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

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

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

Article 126d
Limitations in the Content of the Prohibiting Measures

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

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

Article 126e
Enforcement of Prohibiting Measures

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

(2) A decision ordering the travel ban shall be submitted also to the border police, and the temporary withdrawal of travel documents together with the prohibition of issuance of new travel documents, as well as the enforcement of the prohibition to use the identity card for crossing the State border shall be entered into the Central Data Processing Centre.

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

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

Article 126f
Verification of Prohibiting Measures and Obligation to Submit Report

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

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

Article 126g
Special Provision on Travel Ban

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

(2) The Prosecutor may issue the order referred to in Paragraph (1) of this Article when ordering the conduct of an investigation, when questioning the suspect or when issuing an apprehension order under Article 125, Paragraph (2) of this Code, or whenever the emergent action is needed for the effective conduct of the process until the beginning of the main trial.

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

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

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

Section 5 - BAIL

Article 127
Conditions for Posting Bail

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

Article 128
The Contents of Bail

(1) Bail shall always be expressed as an amount of money that is set on the basis of the seriousness of the criminal offense, the personal and family circumstances of the accused, and the property situation of the person posting bail.
(2) Bail consists of depositing money, securities, valuables or other personal property of a large value that is easily marketable and easily maintained, or of placing a mortgage for the amount of bail on real estate of the person posting bail, or of a personal pledge of one or more individuals that they will pay the amount of bail that has been set should the accused flee.
(3) A person posting a bail shall submit evidence on his economic state, origin of the property and ownership of the property or possession of the property posted as bail.
(4) If the accused flees, a decision shall be issued ordering that the amount posted as bail shall be credited to the Budget of Bosnia and Herzegovina.

Article 129
Cancellation of Bail

(1) Notwithstanding the bail posted, the accused shall be placed in custody if without justification he fails to appear when duly summoned, if he is preparing to flee or if there occurs another legal ground for his custody after he has been released.
(2) In a case referred to in Paragraph 1 of this Article, the bail bond shall be cancelled. The money, valuables, securities or other personal property deposited shall be returned, and the mortgage shall be removed. The same procedure shall be followed when the criminal proceedings terminate with a legally binding decision to dismiss proceedings or with a verdict.
(3) If a prison sentence is pronounced in the verdict, the bail bond shall be cancelled only when the convicted person begins to serve the sentence.

Article 130
Decision on Bail

In the course of an investigation, a decision on bail and the cancellation of the bail shall be issued by the preliminary proceedings judge and after the issuance of an indictment – by a preliminary hearing judge and after the case has been

submitted to the judge or the Panel for the purpose of scheduling the main trial – by that judge or the presiding judge. A decision setting the bail and a decision cancelling the bail shall be taken following the hearing of the Prosecutor.

Section 6 - PRE-TRIAL CUSTODY

Article 131

General Provisions

(1) Custody may be ordered or extended only under the conditions prescribed by this Code and only if the same purpose cannot be achieved by another measure.
(2) Custody shall be ordered or extended by a decision of the Court issued on the motion of the Prosecutor after the Court heard the suspect or accused about circumstances surrounding the grounds for proposed custody, except in a case prescribed by Article 132, Paragraph 1, Item a) of this Code.
(3) The Prosecutor shall submit to the Court a reasoned proposal for extension of custody latest five days before expiration of a deadline from the decision on ordering custody. The Court shall submit the proposal to suspect or accused and his defence attorney.
(4) The duration of custody must be reduced to the shortest necessary time. It is the duty of all authorities participating in criminal proceedings and of agencies extending them legal aid to proceed with particular urgency if the suspect or the accused is in custody.
(5) Throughout the proceedings, custody shall be terminated as soon as the grounds for which it was ordered cease to exist, and the person in custody shall be released immediately. Upon proposal of the accused or defence attorney for termination of custody that is based on new facts, the Court shall hold the hearing or panel session about which the parties and defence attorney shall be notified. Absence of duly summoned parties and defence attorney do not prevent the hearing or panel session from being held. The appeal against the decision on rejecting proposal for termination of custody is allowed. If a proposal is not based on new facts relevant for the termination of custody the Court shall not issue a separate decision.

Article 132

Grounds for Pre-trial Custody

(1) If there is a grounded suspicion that a person has committed a criminal offense, custody may be ordered against him:
   a) if he hides or if other circumstances exist that suggest a possibility of flight;
   b) if there is a justified fear to believe that he will destroy, conceal, alter or falsify evidence or clues important to the criminal proceedings or if particular circumstances indicate that he will hinder the inquiry by influencing witnesses, accessories or accomplices;
   c) if particular circumstances justify a fear that he will repeat the criminal offense or complete the criminal offense or commit a threatened criminal offense, and for such criminal offenses a prison sentence of three (3) years may be pronounced or more;
   d) in exceptional circumstances, related to criminal offence for which a prison sentence of ten years or more severe punishment may be pronounced, which is of particular gravity taking into account the manner of perpetration or consequence of the criminal offense, if the release would result in an actual threat to disturbance of public order.
(2) In a case of Item b), Paragraph 1 of this Article, custody shall be cancelled once the evidence for which the custody was ordered has been secured.

Article 133

General Right to Restrict the Movement

A person caught committing a criminal offense may be restricted in his movement by any other person. The person who is so restricted must be immediately turned over to the Court, Prosecutor or to the nearest police authority, and if this may not be done, the Court, Prosecutor or the police must be notified about it immediately.

Article 134

Competence for Ordering Custody

(1) Custody shall be ordered by a decision of the Court and on the motion of the Prosecutor.
(2) A decision on custody shall contain: the first and last name of the person being taken into custody, the criminal offense he with which is charged, the legal basis for custody, explanation, instruction as to the right of appeal, the official seal and the signature of the judge ordering custody.
(3) A decision on custody shall be delivered to the pertinent person at the moment of deprivation of liberty. The files must indicate the hour of the deprivation of liberty and the hour of the delivery of the decision.
(4) The person taken into custody may appeal the decision on custody with the Panel (Article 24, Paragraph 7) within 24 hours of the receipt of the decision. If the person taken into custody is questioned for the first time after the expiration of this period, he may file an appeal during the questioning. The appeal with a copy of the minutes on questioning, if the person in custody has been questioned, and evidences on which the decision on custody has been grounded as well as the decision on custody shall be submitted immediately to the Panel. An appeal shall not stay the execution of the decision.
(5) In case referred to in Paragraphs 4 of this Article, the Panel deciding the appeal must take a decision within 48 hours.

Article 135

Duration of Custody

(1) Before taking a decision ordering custody, the preliminary proceedings judge shall review whether there are grounds for a motion to order custody. Upon the decision of the preliminary proceedings judge, custody may last no longer than one (1) month following the date of deprivation of liberty. After that period, the suspect may be kept in custody only on the basis of a decision extending the custody.

(2) Custody may be extended, upon a decision of the Panel (Article 24, Paragraph 7), following a substantiated motion of the Prosecutor, for no longer than two (2) months. An appeal against the decision of the Panel shall be allowed and it shall be decided by the Appellate Division Panel. An appeal does not stay the execution of the decision.

(3) If the proceeding is ongoing for the criminal offense for which a prison sentence of ten (10) years may be pronounced or more, and if there are particularly important reasons, custody may be extended following a substantiated motion of the Prosecutor, for no longer than three (3) months. An appeal against the decision of the Panel shall be allowed and it shall be decided by the Appellate Division Panel. An appeal does not stay the execution of the decision.

(4) Exceptionally and in an extraordinarily complex case concerning a criminal offense for which a long-term imprisonment is prescribed, custody may again be extended for no longer than three (3) months after the extension of the custody referred to in Paragraph 3 of this Article. Such an extension may occur twice consecutively, following a substantiated motion of the Prosecutor for each extension, which needs to contain the statement of the Collegium of the Prosecutor's Office about the necessary measures that have to be undertaken in order to complete the investigation (Article 225, Paragraph 3). An appeal against the decision of the Panel on the custody extension shall be decided by the Appellate Division Panel. An appeal does not stay the execution of the decision.

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

Article 136

Termination of Custody

(1) In the course of the investigation and before the expiration of the custody, the preliminary proceedings judge may terminate custody by the decision upon hearing from the Prosecutor. Against the decision, the Prosecutor may file an appeal to the Panel referred to in Article 24 Paragraph 7. The Panel shall be bound to reach a decision within 48 hours.

Article 137

Custody after the Confirmation of the Indictment

(1) After the confirmation of indictment, custody may be ordered, extended or terminated. The review of justification of the custody shall be carried out upon the expiration of each two (2) month period following the date of issuance of the most recent decision on custody. The appeal against this decision shall not stay its execution.

(2) After the confirmation of an indictment and before the first instance verdict is pronounced, the custody may not last longer than:

a) one year in the case of a criminal offense for which a punishment of imprisonment for a term up to five years is prescribed;

b) one year and six months in the case of a criminal offense for which a punishment of imprisonment for a term up to ten years is prescribed;

c) two years in the case of a criminal offense for which a punishment of imprisonment for a term exceeding ten years may be imposed, but not the long-term imprisonment;

d) three years in the case of a criminal offense for which a punishment of long-term imprisonment is prescribed.

(3) *If, during the period referred to in Paragraph 2 of this Article, no first instance verdict is pronounced, the custody shall be terminated and the accused released.*

Article 138

Ordering Custody after the Verdict is pronounced

***(1)* When the Court pronounces a sentence of imprisonment against an accused, the Court may order the accused into custody, or continued custody, while taking into account all the circumstances related to the commission of the criminal offence and the personality of the perpetrator. In such a case, a special decision shall be issued, and an appeal from such decision shall not stay its execution.**

(2) Custody shall be terminated and release of the accused ordered if he has been acquitted or if the charges against him have been rejected for the reasons other than lack of jurisdiction of the Court or he has been found guilty but released from penalty or he has only been fined or conditionally sentenced or, due to crediting the custody time, he has already served the sentence.

(3) After pronouncing the first instance verdict, the custody may last no longer than additional nine months. Exceptionally, in complex cases and for the important reasons, the Appellate Panel may extend the custody additionally for a six months maximum. If during that period no second instance verdict to alter or sustain the first instance verdict is pronounced, the custody shall be terminated and the accused shall be released. If within the prescribed deadlines the second instance verdict is pronounced reversing the first instance verdict, the custody shall last for no longer than another year after pronouncement of the second instance verdict.

(4) At the request of the accused, who is in custody after a sentence of imprisonment has been pronounced on him, a

judge or the presiding judge may commit the accused by a decision to an institution for serving the sentence even before the verdict becomes legally binding.

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

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

Article 139

Deprivation of Liberty

(1) The police may deprive a person of liberty if there are grounds for suspicion that he may have committed a criminal offence and if there are any of the reasons as referred to in Article 132 of this Code, but they must immediately, but no later than 24 hours, bring that person before the Prosecutor. In apprehending the person concerned, the police authority shall notify the Prosecutor of the reasons for and time of the deprivation of liberty. The use of force in accordance with law is allowed when apprehending the person.

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

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

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

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

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

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

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

(9) In the case referred to in paragraphs (7) and (8) of this Article, the Panel referred to in Article 24 Paragraph (7) of this Code shall decide on the appeal and is obliged to issue a decision within 48 hours of receipt of the appeal by the Court.

Section 7 - Execution of Custody and Procedure With Persons Taken Into Custody

Article 140

General Provisions

Custody shall be executed in the institutions so designated by the Minister of competent Ministry of Bosnia and Herzegovina in cooperation with competent bodies of entities and District Brčko of Bosnia and Herzegovina. The task of execution of custody may be performed only by those employees of the Ministry who have necessary knowledge and skills and professional qualifications as prescribed by legislation.

Article 141

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

(1) Custody must be executed in such a manner as not to offend the personal integrity and dignity of the accused. In executing custody, authorized officials of the Judicial police and guards of the institution may use means of force only in cases prescribed under law.

(2) The rights and freedoms of the person taken into custody may be restricted only insofar as it is necessary to achieve the purpose for which custody has been ordered and to prevent the flight of the person taken into custody, commission of a criminal offense or endangerment to the life and health of people.

(3) The administration of the institution shall collect, process and store data on the person taken into custody, including data concerning the identity of the person in custody and his psycho-physical condition, the duration, extension and cancellation of his custody, the work performed by the person in custody, and his behavior and disciplinary measures applied.

(4) The custody records concerning the detainees shall be kept by the competent Ministry of Bosnia and Herzegovina.

Article 142

Accommodation of Persons in Custody

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

Article 143

Special Rights of Persons Taken into Custody

(1) Persons in custody have the right to eight (8) hours of uninterrupted rest within each 24-hour period. In addition, they shall be guaranteed at least two (2) hours of walking in the open air daily.

(2) A person in custody shall be allowed to have personal belongings and hygienic items in his possession, and shall also be allowed to procure at his own expense books, newspapers and other printed media. A detainee shall also be allowed to keep other objects in such a quantity and size so as not to disturb the living environment in the room and the internal regulations of the custody. In admitting a person to custody, objects related to the criminal offense shall be seized from him during the search of his person, and any other objects that the arrestee is not allowed to have in his possession while in custody shall be put aside and stored according to his instruction or delivered to a person designated by him.

Article 144

The Right to Communication of the Person in Custody with the Outside World and Defense Attorney

(1) **Detainees shall be entitled to visits by persons of their choosing except where the preliminary proceedings judge issues a written decision prohibiting specific visits due to their detrimental effect on the conduct of the proceedings.**

(2) **Foreign detainees shall be entitled to visits by their diplomatic and consular representatives or representative of the country protecting their interests, in compliance with international law and subject to internal regulations of the custody except where the preliminary proceedings judge issues a written decision prohibiting specific visits due to their detrimental effect on the conduct of the proceedings.**

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

(4) A detainee shall be prohibited from using cellular phone but shall have the right, subject to internal regulations of the custody, to make telephone calls at his own expense. To that end, the detention administration shall provide the detainees with a sufficient number of public telephone connections. The preliminary proceedings judge, the preliminary hearing judge, the individual judge or the presiding judge may, for a reason of security or due to the existence of one of the reasons referred to in Article 132 Paragraph 1 Item a) through c), of this Code restrict or prohibit, by a decision, the use of the telephone by a detainee.

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

Article 145

Disciplinary Violations of a Detainee
(deleted)

Article 146
Visits by Court

The President of the Court, the preliminary proceedings judge, an individual judge or the presiding judge may visit the detainees at all times, may talk to them and may hear their complaints.

Article 147

Internal Regulations of the Institutions for Detention

The Minister of the competent Ministry of Bosnia and Herzegovina shall issue internal regulations for the institutions for detention that shall regulate in detail the execution of custody in accordance with the provisions of this Code.

CHAPTER XI - SUBMISSIONS AND MINUTES

Article 148

Filing and Emendation of Submissions

(1) Bills of indictment, motions, legal remedies and other statements and communications shall be submitted in writing or given orally for entry into the minutes.

(2) A submission referred to in Paragraph 1 of this Article must be comprehensible and must contain all that is necessary in order to be acted upon.

(3) Unless otherwise determined by this Code, the person filing a submission that is incomprehensible or does not contain all that is necessary for action on the submission, shall be summoned by the Court to correct or supplement the submission; should he not do so within a specified period, the Court shall reject the submission.

(4) The summons to correct or to supplement the submission shall warn the person who filed the submission about the consequences of his failure to correct or to supplement it.

Article 149

Delivery of the Submission to the Opposing Party

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

Article 150

Punishing Persons Insulting the Court

The Court shall impose a fine in an amount up to 5.000 KM on a Prosecutor, defense attorney, power of attorney, legal representative or injured party who in a submission or verbal statement insults the Court. An appeal shall be permitted against this decision. The high Judicial and Prosecutorial Council of Bosnia and Herzegovina shall be informed of the penalty pronounced on the Prosecutor, and the appropriate Bar Association shall be informed of the penalty pronounced on an attorney.

Article 151

Obligation to Take Minutes

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

Article 152

Contents of the Minutes

(1) The entry in the minutes shall include: the name of the body before which the action is being taken, the venue where the action is being taken, the date and the hour when the action began and ended, the first and last names of the persons present and the capacity in which they are present, and an identification of the criminal case in which the action is being taken.
(2) The minutes should contain the essential information about the course and content of the action taken. The questions and responses shall be entered in the minutes verbatim. If physical objects or papers are forfeited in the course of the action, this shall be indicated in the minutes, the articles taken shall be attached to the minutes, or the place where they are being kept shall be indicated.
(3) In the conduct of proceedings such as an inquest at the crime scene, search of a dwelling or person, or the identification of persons or objects, information that is important in view of the significance of that action or for establishing the identity of certain articles, including description, dimensions and size of an article or traces and labelling articles, shall also be entered in the minutes; if sketches, drawings, layouts, photographs, films, and the like are made, this shall be entered in the minutes, and they shall be attached to the minutes.

Article 153

Keeping Minutes

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

Article 154

Reading and Signing the Minutes

(1) The suspect or accused or other person being questioned, the defense attorney and the injured party shall be entitled to read the minutes or to demand that they be read to him. The person conducting the proceedings must make the said individuals aware of this right, and it shall be noted in the minutes whether they have been so informed and whether the minutes have been read. The minutes shall always be read if the minutes taker was not present, and that shall be indicated in the minutes.
(2) The minutes shall be signed by the person being questioned. If the minutes consist of more than one folded sheet, the person being questioned shall sign each folded sheet.
(3) The minutes shall be signed at the end by the interpreter, if any, by witnesses whose presence was compulsory during the conduct of investigative actions, and, during a search, by the person searched or the person whose dwelling was searched. If the minutes are not kept by the minutes taker, the minutes shall be signed by persons present on the occasion of the action. If there are no such persons, or if persons present are unable to understand the contents of the minutes, the minutes shall be signed by two witnesses, except in cases where it has not been

possible to provide for their presence.

(4) An illiterate person shall place the print of the index finger of his right hand in place of a signature, and the minutes taker shall enter the person's first and last name underneath the fingerprint. If the print is of some other finger or a print of a finger of the left hand is made because it is not possible to make a fingerprint of the right index finger, the minutes shall indicate the finger and hand from which the print was taken.
(5) If the person being questioned refuses to sign the minutes or to place his fingerprint, this shall be noted in the minutes along with the reason for the refusal.
(6) If the person being questioned has neither hand, he shall read the minutes, and if he is illiterate the minutes shall be read to him, and this shall be noted in the minutes.
(7) If the action could not be conducted without an interruption, the minutes shall indicate the day and hour when the interruption occurred and the day and hour when the action was resumed.
(8) If there have been objections pertaining to the contents of the minutes, those objections shall also be indicated in the minutes.
(9) The minutes shall be signed at the end by the person who conducted the action and by the minutes taker.

Article 155

Audio or Tape Recording

(1) As a rule, all undertaken actions during the criminal procedure shall be audio or audio-visual recorded. The Prosecutor or authorized official shall inform the person being questioned that the questioning shall be recorded, and inform him that he has a right to ask for a playback of the tape recording in order to verify his statement.
(2) The tape recording must contain the information referred to in Article 152 Paragraph 1 of this Code, information necessary to identify the individual whose statement is being tape recorded, and information as to the capacity in which that person is making the statement. When the statements of several persons are tape recorded, care must be taken so that a listener can clearly recognize from the recording who has made the statement.
(3) The tape recording shall be immediately played back at the request of the person questioned, and the corrections or clarifications of that person shall be tape recorded.
(4) The record concerning the investigative proceeding shall state that a tape recording was made, shall indicate who made the tape recording, shall state that the person being questioned was informed in advance that the proceeding was being tape recorded and that the tape record was played back, and it shall also indicate where the recording is kept if it is not attached to the official papers of the case.
(5) The Prosecutor may order that a recording be entirely or partially transcribed. The Prosecutor shall examine and certify the transcript and attach it to the record of the investigative proceeding.
(6) Recording shall be kept shall be kept as long as the criminal file is kept.
(7) The Prosecutor may allow persons with a legitimate interest to audio or audio-visual record investigative proceedings.
(8) The recordings referred to in Paragraph 1 through 7 of this Article may not be publicly played without written approval of the parties and other participants in the recorded action.

Article 156

Appropriate Application of the Provisions of This Code

The provisions of Articles 253 and 254 of this Code shall also apply to the minutes of the main trial.

Article 157

Minutes on Deliberations and Voting

(1) Separate minutes shall be kept concerning the deliberations and voting process.
(2) The minutes on the deliberations and voting of the Panel shall contain the course of the voting and the verdict rendered.
(3) These minutes shall be signed by all the members of the Panel and the minutes taker. Separate opinions shall be appended to the minutes of the deliberations and voting unless they have been entered in the minutes.
(4) The minutes concerning the deliberations and voting of the Panel of judges shall be enclosed in a separate envelope. The minutes may be reviewed exclusively by the Panel of the Appellate Division when deciding on legal remedies and in this case, it shall be bound to re-enclose the minutes in a separate envelope and indicate on the envelope that it has reviewed the minutes.

CHAPTER XII - DEADLINES

Article 158

Deadlines for Filing of Submissions

(1) The deadlines provided by this Code may not be extended unless explicitly allowed by this Code. If a deadline specified by this Code to protect the right to a defense and other process rights of the suspect or the accused, that deadline may be shortened at the request of the suspect or the accused, in writing, or verbally before a minutes taker who shall make a record.
(2) When a statement must be made within a specified period of time, it shall be assumed that it has been made within the specified period of time if it has been given to the person authorized to receive it before the expiration of that

period.

(3) When a statement has been sent by registered mail or telegraph, the date of mailing or sending shall be taken as the date of delivery to the person to whom it has been sent.

(4) The suspect or the accused who is in pretrial custody may also make a time- limited statement for the record of the Court or deliver it to the administration of the prison, and a person who is serving a prison sentence or who is an inmate in some other institution because of a security measure or correctional measure may deliver such a statement to the administration of the institution in which he is an inmate. The day when the record was made or when the statement was delivered to the administration of the institution as applicable shall be taken as the date of delivery to the body competent to receive it.

(5) Prior to the expiration of the deadline, if a submission subject to a deadline has been delivered or sent due to ignorance or an obvious mistake of the sender to a Court that is not competent, on reaching the Court after expiration of the deadline, it shall be considered that it was submitted on time.

Article 159

Computing Deadlines

(1) Deadlines shall be computed in hours, days, months and years.

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

(3) Deadlines stated in months or years shall expire in the last month or year at the end of the same day of the month or the year on which the period began, as applicable. If there is no such day in the last month, the period shall expire on the last day of that month.

(4) If the last day of the deadline falls on a state holiday or a Saturday or Sunday, or on any other day when the governmental body in question does not work, the deadline shall expire at the end of the next working day.

Article 160

Conditions for Allowing Return to *Status Quo Ante*

(1) If the accused shows good reasons for failing to meet the deadline for making an appeal against a verdict or a decision pronouncing a security measure or correctional measure or a decision to forfeiture property gain, the Court shall allow return to the *status quo ante* for purposes of submitting the appeal if, within eight (8) days following termination of the reasons for failing to meet the deadline, the accused submits a request for return to the *status quo ante* and files his appeal simultaneously with the request.

(2) Return to the *status quo ante* may not be requested if three (3) months have passed from the date of failure to meet the deadline.

Article 161

Decision on Return to *Status Quo Ante*

(1) The decision on the return to the *status quo ante* shall be made by the judge or the presiding judge who rendered the verdict or the decision being contested by the appeal.

(2) No appeal shall be permitted against a decision allowing return to the *status quo ante*.

Article 162

Consequences of Filing a Request for Return to *Status Quo Ante*

As a rule, a request for return to the *status quo ante* shall not stay execution of a verdict or execution of a decision instituting a security measure or correctional measure or a decision to forfeit property gain, but the Court may decide to halt the execution until a decision is made on the request.

CHAPTER XIII - RENDERING AND COMMUNICATION OF DECISIONS

Article 163

Types of Decisions

(1) Decisions shall be rendered in criminal proceedings in the form of a verdict, procedural decision or order.

(2) A verdict shall be rendered only by a Court, while procedural decisions and orders shall also be issued by other bodies participating in criminal proceedings.

Article 164

Deciding at the Deliberation and Voting Sessions

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

(2) The President of the Panel shall direct both the deliberation and vote and shall cast the final vote. He shall be responsible for ensuring that all issues are examined in a full and comprehensive manner.

(3) If votes on certain issues have been divided among several different opinions, and if none of them has a majority, the issues shall be separated and the votes shall be repeated until a majority is reached. If no majority has been reached in this manner, the decision shall be adopted by adding those votes that are most unfavorable for the accused to the votes that are less unfavorable until the necessary majority is reached.

(4) Members of the Panel cannot refuse to vote on questions put by the Presiding judge of the Panel, but a member of the Panel who has voted to acquit the accused or to revoke the verdict and who has remained in the minority shall not be required to vote on the penalty. If he does not vote, it shall be taken that he consented to the vote that was most favorable for the accused.

Article 165

Manner of Voting

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

Article 166

Closed Session

(1) Deliberations and voting shall be done in a closed session.
(2) Only members of the Panel and a record keeper may be present in the room where the Court conducts its deliberations and voting.

Article 167

Communication of Decisions

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

CHAPTER XIV - DELIVERY OF CASE RELATED DOCUMENTS

Article 168

Manner of Delivery

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

Article 169

Personal Delivery

A writ or notice that under this Code must be personally served shall be delivered directly to the person to whom it is addressed. If a person to whom a writ or notice must be personally delivered has not been found where the delivery was to take place, the writ server shall make inquiries as to when and where that person may be found and shall leave with one of the persons under Article 170 of this Code a written notice that he should be in his dwelling or at his workplace at a particular day and hour in order to receive the writ or notice. If even after this the writ server does not find the person to whom the writ or notice is to be delivered, he shall use the procedure under the provision of Article 170, Paragraph 1 of this Code, and it shall be assumed that the writ or notice has been served.

Article 170

Indirect Delivery

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

Article 171

Contents of Personally Served Documents

(1) The summons to the first examination in the investigation, the summons to the main trial, and the summons to the pronouncement of the criminal sanction hearing shall be personally served on the suspect or accused.
(2) The indictment and also the verdict and other decisions for which the period of time for appeal commences on the date of their service, including the appeal by the opposing party submitted for an answer, shall be personally served on an accused who does not have a defense attorney. At the request of the accused, the verdict and other decisions shall be served on a person designated by him.
(3) If an accused who does not have a defense attorney is to be delivered a verdict by which a sentence of imprisonment has been pronounced against him, and the verdict cannot be delivered at his previous address, the Court shall *ex officio* appoint an attorney for defense of the accused, who shall perform that duty until the new address of the accused is learned. The appointed defense attorney shall be given the necessary period of time to acquaint himself with the case file, whereupon the verdict shall be served on the appointed defense attorney and proceedings shall resume. If it concerns another decision whose date of delivery becomes the date of commencement of the period of time for an appeal or if it concerns an appeal of the opposing party that is being submitted for an answer, the decision or appeal shall be posted on the bulletin board of the Court, and at the end of eight (8) days from the date of posting it shall be assumed that valid delivery has been made.
(4) If the accused has a defense attorney, the indictment and all decisions for which the period of time for filing an appeal commences on the date of delivery, and also the appeal of the opposing party submitted for an answer, shall be served on the defense attorney and the accused in accordance with the provisions of Article 170 of this Code. In such a case, the period for pursuing a legal remedy or answering the appeal shall commence on the date when the writ or notice is delivered to the accused or defense attorney. If the decision or appeal cannot be served on the accused because the accused has failed to report a change of address, the decision or appeal shall be posted on the bulletin board of the Court and at the end of eight (8) days from the date of posting it shall be assumed that valid delivery has been made.
(5) If a writ or notice is to be delivered to the defense attorney of the accused, and he has more than one defense attorney, it shall be sufficient to make delivery to one of them.

Article 172

Receipt Confirming Delivery

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

Article 173

Refusal to Receive a Writ

If the recipient or an adult member of his family refuses to accept the writ, the person making the delivery shall note on the receipt the date, hour and reason for refusal, and shall leave the writ in the dwelling of the recipient or in his workplace, whereby service is completed.

Article 174

Special Cases of Delivery

(1) A summons shall be served on a person deprived of liberty through the Court or through the administration of the institution where he is an inmate.
(2) Persons who enjoy the right of immunity in Bosnia and Herzegovina, unless otherwise specified under international treaties, shall be served summons through the competent Ministry in of Bosnia and Herzegovina.
(3) If the procedure set forth in Articles 408 and 409 of this Code does not apply, Bosnia and Herzegovina nationals abroad shall be served summonses through the diplomatic or consular missions of Bosnia and Herzegovina in a foreign country, provided that the foreign state does not oppose this manner of service and that the person being served the summons voluntarily consents to receive the summons. An authorized official of the diplomatic or consular mission shall sign the receipt as the person making the delivery if the summons is served within the mission office itself, and if the summons is sent by mail, he shall so indicate on the receipt.

Article 175

Delivery to the Prosecutor

(1) Decisions and other writs or notices shall be delivered to the Prosecutor by delivery to the writing office of the Prosecutor's Office.
(2) In the case of delivery of decisions for which a period of time commences on the date of delivery, the date of presentation of the document to the writing office of the Prosecutor's Office shall be taken as the date of delivery.

Article 176

Applicability of Corresponding Provisions of Other Laws

In cases that have not been specifically covered by this Code, the delivery shall be made according to the provisions that

apply to a civil action before the Court.

Article 177

Informing by Way of Telegram or Telephone

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

CHAPTER XV - EXECUTION OF DECISIONS

Article 178

Finality of Decisions

(1) A verdict shall become final when it may no longer be contested by an appeal or when no appeal is admissible.
(2) A verdict that becomes final shall be executed if its delivery has been carried out and if there are no legal obstacles to its execution. If an appeal has not been filed, or if the parties have waived or abandoned on the appeal filed, the verdict shall be considered executable by the expiration of the time period set forth for appeal, or as of the day of the waiving or abandonment of the appeal filed.
(3) The Court shall be competent for the execution of final verdicts.
(4) If a commissioned official has been convicted, the Court shall deliver a certified copy of the final verdict to the body in charge for the defense in which the convicted person is registered.

Article 179

Failure to Collect Fines

If a fine prescribed by this Code cannot be collected, the Court shall proceed by applying the Criminal Code of Bosnia and Herzegovina.

Article 180

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

(1) With respect to the costs of criminal proceedings, forfeiture of property gain and claims under property law, the verdict shall be executed by the Court under the provisions that apply to judicial enforcement procedure and that apply on the territory where the delivery of order is to be carried out.
(2) Forcible collection of the costs of criminal proceedings credited to the budget of Bosnia and Herzegovina shall be done *ex officio*. The costs of forcible collection shall be credited first from the Court budgetary appropriations.
(3) If the verdict pronounces the security measure of forfeiture of items, the Court shall decide whether it wishes those articles to be sold under the provisions applicable to judicial enforcement procedure, turned over to the criminology museum or some other institution, or destroyed. The proceeds obtained from sale of such articles shall be credited to the budget of Bosnia and Herzegovina.
(4) The provision of Paragraph 3 of this Article shall also be applied accordingly when a decision is made to forfeit property on the basis of Article 391 of this Code.
(5) Aside from the case of retrial of the criminal case, a final order to forfeit items may be amended in a civil action if a dispute arises as to the ownership of the items forfeited.

Article 181

Enforceability of Decisions

(1) Unless this Code states otherwise, decisions shall be executed when they become final. Orders shall be executed immediately unless the issuing body or agency orders otherwise.
(2) A decision becomes final when it may no longer be contested by an appeal or when no appeal is admissible.
(3) Unless otherwise specified, decisions and orders shall be executed by the bodies that have rendered those decisions or issued those orders. If in its decision a Court has pronounced a verdict concerning the costs of criminal proceedings, those costs will be collected under the provisions of Article 180, Paragraphs 1 and 2 of this Code.

Article 182

Doubts as to whether the Execution is Permissible

(1) If doubts arise as to whether execution of a Court decision is permissible or as to the computation of a sentence, or if a final verdict fails to make a decision to credit pretrial custody or a previously served sentence, or the computing has not been done correctly, a decision shall be made on those points in a separate decision that shall be made by the judge or by the presiding judge of the Panel which tried the case in the first instance. An appeal shall not stay execution of the decision unless the Court specifies otherwise.
(2) If doubt arises as to the interpretation of the Court decision, the ruling shall be made by the judge or by the Panel of judges that rendered the final decision.

Article 183

Validity of a Verdict on a Claim under Property Law

When a decision containing a verdict on a claim under property law becomes legally binding, at the request of injured party, a certified transcript of the decision shall be issued to him, with a note that the verdict is executable.

Article 184

Regulations of Penal Records

Regulations on the keeping of penal records shall be issued by the Minister of the competent Ministry of Bosnia and Herzegovina.

CHAPTER XVI - COSTS OF CRIMINAL PROCEEDINGS

Article 185

Types of Costs

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

a) costs for witnesses, expert witnesses, interpreters and specialists and the cost of a crime scene investigation;
b) the cost of transporting the accused, or the suspect;
c) the expenses of requiring the suspect or the accused or person in custody to appear;
d) the transportation and travelling expenses of officials;
e) expenses of medical treatment of the suspect or the accused while in pretrial custody, including the expenses of childbirth, except for the expenses covered from the health insurance fund;
f) costs of technical examination of vehicle, blood sample analysis and transportation of corpse to the place of autopsy;
g) a scheduled amount;
h) remuneration and necessary expenses of defense attorney;
i) necessary expenses of the injured party and his legal representative.

(3) The scheduled amount shall be fixed within the limits of amounts specified by the appropriate regulation based on the duration and complexity of the proceedings and the financial condition of the person required to pay the amount.
(4) The expenses enumerated under Items a) through f) of Paragraph 2 of this Article and the necessary expenses of an appointed defense attorney shall be paid in advance from the funds of the Prosecutor's Office or the Court, and they shall be collected later from the individuals who are required to make compensation under the provisions of this Code. The body conducting the criminal proceedings must list all expenses that have been paid in advance, which shall be appended to the record.
(5) *Upon request of the defense attorney, remuneration for appointed defense attorney may be paid during the course of the proceedings at regular intervals to be determined by the Court, taking into consideration the facts and circumstances of each case. In exceptional circumstances, the Court may also order an advance payment to be made prior to expenses being incurred*.
(6) Costs of interpretation into the languages of the parties, witness and other participants in the criminal proceedings that are incurred in enforcing the provisions of this Code shall not be collected from individuals who under the provisions of this Code are required to compensate the costs of criminal proceedings.

Article 186

Decision Concerning the Costs

(1) In every verdict or decision halting criminal proceedings a decision shall be made as to who will cover the costs of the proceedings and as to the amount of these costs.
(2) If data on the amount of costs are lacking, a special decision on the amount of costs shall be made by the Court when such data are obtained. The request with the data on the amount of costs may be submitted not later than six (6) months after the day that a legally binding verdict or decision halting criminal proceedings is delivered to the person who is entitled to make such a request.
(3) When the decision on costs of criminal proceedings are contained in a separate decision, an appeal against that decision shall be ruled on by a Panel of judges of the Appellate Division.

Article 187

Other Costs

(1) The suspect or accused, defense attorney, legal representative, witness, expert witness, interpreter and specialist, regardless of the results of the criminal proceedings, shall pay the costs of appearance or postponement of the investigative proceeding or main trial and other costs or proceedings incurred through their own fault and the corresponding share of the scheduled amount.
(2) A separate decision shall be rendered concerning the costs referred to in Paragraph 1 of this Article, unless the matter of costs to be paid by the accused is settled in the decision on the main issue.

Article 188

Costs of Proceedings when the Accused is Found Guilty

(1) When the Court finds the accused guilty, it shall declare in the verdict that the accused must reimburse the costs of criminal proceedings.
(2) A person who has been charged with several criminal offenses shall not be ordered to reimburse costs related to criminal offenses of which he has been acquitted if those costs can be determined separately from the total costs.
(3) In a verdict finding several defendants guilty, the Court shall specify what portion of the costs shall be paid by each of them; but if this is not possible, it shall order that all the defendants be jointly and severally liable for the costs. Payment of the scheduled amount shall be specified for each accused separately.
(4) In the decision which settles the issue of costs the Court may relieve the accused of the duty to reimburse all or part of the costs of criminal proceedings as referred to in Article 185, Paragraph 2, Items a) through h), of this Code if their payment would jeopardize the support of the accused or of persons whom the accused is required to support economically. If these circumstances are ascertained after the decision on costs has been rendered, the judge may issue a separate decision relieving the accused of the duty to reimburse the costs of criminal proceedings.

Article 189

Costs of Proceedings in Case the Proceedings are discontinued or a Verdict is Rendered Acquitting the Accused or Rejecting the Charges

(1) When criminal proceedings are dismissed or when a verdict is rendered that acquits the accused or rejects the charge, the decision or verdict shall pronounce that the costs of criminal proceedings referred to in Article 185, Paragraph 2, Items a) through f) of this Code and the necessary expenditures of the accused and the necessary expenditures and remuneration of defense attorney shall be paid from budget appropriations, except in the cases specified in the Paragraph 2 of this Article.
(2) A person who deliberately files a false charge shall pay the costs of criminal proceedings.
(3) When the Court rejects the charge because it is not competent, the decision on costs shall be made by the competent Court.
(4) If the request for compensation of necessary costs and remuneration referred to in Paragraph 1 of this Article is not approved or the Court fails to decide the request within three (3) months following the day of filing the request, the accused and defense attorney shall be entitled to settle their claims against the state of Bosnia and Herzegovina through the civil proceedings.

Article 190

Remuneration and Necessary Expenses of the Defense Attorney

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

Article 191

Costs of the Appellate Proceedings

It shall be decided in accordance with the provisions of the Articles 185 through 190 of this Code on obligation to pay the costs of the appellate proceedings.

Article 192

Separate Regulations Concerning the Coverage of Costs

More detailed regulations concerning reimbursement of the costs of criminal proceedings and the scheduled amount shall be issued by the Council of Ministers of Bosnia and Herzegovina.

CHAPTER XVII - CLAIMS UNDER PROPERTY LAW

Article 193

Subject of the Claim under Property Law

(1) A claim under property law that has arisen because of the commission of a criminal offense shall be deliberated on the motion of authorized officials in criminal proceedings if this would not considerably prolong such proceedings.
(2) A claim under property law may pertain to reimbursement of damage, recovery of items, or annulment of a particular legal transaction.

Article 194

Petition to Satisfy a Claim under Property Law

(1) The petition to satisfy a claim under property law in criminal proceedings may be filed by the person authorized to pursue that claim in a civil action.
(2) If a criminal offense has caused damage to the property of the State of Bosnia and Herzegovina, the body

empowered by law to protect such property may participate in criminal proceedings in accordance with its powers under that law.

Article 195

Procedure for Satisfaction of a Claim under Property Law

(1) A petition to pursue a claim under property law in criminal proceedings shall be filed with the Prosecutor or Court.
(2) The petition may be submitted no later than the end of the main trial or sentencing hearing before the Court.
(3) The person authorized to submit the petition must state his claim specifically and must submit evidence.
(4) If the authorized person has not filed the petition to pursue his claim under property law in criminal proceedings before the indictment is confirmed, he shall be informed that he may file that petition by the end of the main trial or sentencing hearing. If a criminal offense has caused damage to the property of the State of Bosnia and Herzegovina, and no petition has been filed, the Court shall so inform the body referred to in Article 194, Paragraph 2 of this Code.
(5) If the authorized person does not file the claim under property law until the end of the main trial or if he requests a transfer to civil action, and the data concerning the criminal proceedings provide a reliable grounds for a complete or partial resolution of the claim under property law, the Court shall decide in the convicting verdict to pronounce on the accused the measure of forfeiture of property gain.

Article 196

Petition Withdrawal

(1) Authorized officials may withdraw a petition to satisfy a claim under property law in criminal proceedings up to the end of the sentencing hearing and pursue it in a civil action. In the event that a petition has been withdrawn, that same plea may not be presented again unless otherwise provided under this Code.
(2) If after the petition was filed and before the end of the sentencing hearing the claim under property law has passed under the rules of property law to another person, that person shall be summoned to declare whether or not he abides by the petition. If he does not appear when duly summoned, he shall be considered to have abandoned the petition.

Article 197

Obligations of the Prosecutor and the Court in Relation to the Establishment of Facts

(1) The Prosecutor has a duty to gather evidence and decide whether the possible claim under property law relates to criminal offence.
(2) The Prosecutor or the Court shall question the suspect or the accused in relation to the facts of concern in the petition of authorized officials.

Article 198

Ruling on the Claims under Property Law

(1) The Court shall render a verdict on claims under property law. The Court may propose to the injured party or the accused or the defence attorney to carry out the mediation with the assistance of the mediators in accordance with law if it assesses that the mediation can meet the requirements of the claim under property law. The proposal for the mediation can be initiated before the conclusion of the main trial also by the injured party and the accused or the defence attorney.
(2) In a verdict pronouncing the accused guilty, the Court may award the injured party the entire claim under property law or may award him part of the claim under property law and refer him to a civil action for the remainder. If the data of criminal proceedings do not provide a reliable basis for either a complete or partial award, the Court shall instruct the injured party that he may take civil action to pursue his entire claim under property law.
(3) If the Court renders a verdict acquitting the accused of the charge or dropping the charges or if it decides to discontinue criminal proceedings, it shall instruct the injured party that he may pursue his claim under property law in a civil action.

Article 199

Decisions to Turn Over the Articles to the Injured Party

If a claim under property law pertains to recovery of articles, and the Court finds that the article does belong to the injured party and is in the possession of the accused or one of the participants in the main trial or in the possession of a person to whom those persons gave it for safekeeping, it shall order in the verdict that the article be turned over to the injured party.

Article 200

Decisions to Annul Certain Legal Transactions

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

Article 201

Amending the Decision on a Claim under Property Law

(1) A Court may amend a final verdict that contains a decision on a claim under property law only in connection with a

retrial of the criminal action.

(2) Notwithstanding cases referred to in Paragraph 1 of this Article, the convicted person or his heirs may seek to amend a criminal Court's final verdict containing a decision on a claim under property law only in a civil action, as long as grounds exist for retrial under the provisions that apply to civil proceedings.

Article 202

Temporary Security Measures

(1) Temporary measures to secure a claim under property law that has accrued because of the commission of a criminal offense may be ordered in criminal proceedings according to the provisions that apply to judicial enforcement procedure.

(2) The decision referred to in Paragraph 1 of this Article shall be made by the Court. Against this decision, an appeal is allowed, which shall be ruled on by the Panel referred to in Article 24 Paragraph 7 of this Code. The appeal shall not stay execution of the decision.

Article 203

Return of Articles in the Course of the Proceedings

(1) If a claim pertains to articles that unquestionably belong to the injured party, and they do not constitute evidence in criminal proceedings, those articles shall be given to the injured party even before proceedings are completed.

(2) If the ownership of articles is disputed by several injured parties, they shall be referred to a civil action, and the Court in criminal proceedings shall order only the safekeeping of the items as a temporary security measure.

(3) Items that serve as evidence shall be seized and at the end of the proceedings shall be returned to the owner. If such an item is urgently needed by the owner, it may be returned to him even before the end of the proceedings, under the provision that it be brought in on request.

Article 204

Security Measures Against Third Parties

(1) If an injured party has a claim against a third person because he possesses items obtained through a criminal offense or because he gained property as a result of a criminal offense, the Court in criminal proceedings, upon the petition of authorized officials (Article 194) and according to the provisions that apply to judicial enforcement procedure, may order temporary security measures even toward that third party. The provisions of Article 202, Paragraph 2 of this Code shall apply in this case as well.

(2) In a verdict pronouncing the accused guilty the Court shall either revoke the measures referred to in Paragraph 1 of this Article, if they have not already been revoked, or shall refer the injured party to a civil action, in which case those measures shall be revoked unless the civil action is instituted within the period of time fixed by the Court.

CHAPTER XVIII

MISCELLANEOUS PROVISIONS

Article 205

Discontinuance of the Proceedings if the Suspect or Accused Dies

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

Article 206

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

If in the course of the proceedings it is established that the suspect or the accused was mentally incapacitated at the time of committing the criminal offense, the Court shall render an appropriate decision in accordance with Article 389 of this Code.

Article 207

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

If in the course of criminal proceedings it is ascertained that after the criminal offense was committed the accused has become mentally ill, a decision shall be issued to the effect of adjourning criminal proceedings. (Article 388)

Article 208

Application of the Rules of International Law

(1) The rules of international law shall apply with respect to exemption from criminal prosecution of aliens who enjoy the right of immunity in Bosnia and Herzegovina.

(2) Should there be any doubt as to the identity of persons referred to in Paragraph 1 of this Article, the Prosecutor or the Court shall seek clarification from the Ministry of Justice of Bosnia and Herzegovina.

Article 209

Approval to Prosecute

When the law or other by-law enacted on the basis of the Constitution or law states that prior approval of the competent governmental body is required for prosecution of certain persons, the Prosecutor may not initiate or continue an

investigation nor bring charges without submitting evidence that the approval has been granted.

Article 210

Special Cases of Prosecution

(1) In the event that a criminal offense was committed abroad, the prosecution may be initiated by the Prosecutor, provided that this criminal offense is envisaged under the law of Bosnia and Herzegovina.
(2) In the event referred to in Paragraph 1 of this Article the Prosecutor shall undertake the criminal prosecution only if the offense committed is prescribed as the criminal offense under the laws of the country in whose territory the criminal offense was committed. Neither in that case shall the prosecution be undertaken, if under the laws of that country the prosecution is to be undertaken only upon the request of the injured party, whereas no such request has been filed by the injured party.
(3) Notwithstanding the laws of the country where the criminal offense was committed, the Prosecutor may undertake the prosecution if such an act is a criminal offense against the integrity of Bosnia and Herzegovina or if that act is considered a criminal offense under the rules of international law.

Article 211

Fines in Case of Prolonging Criminal Proceedings

(1) In the course of proceedings, the Court may impose a fine in an amount up to 5.000 KM upon the Prosecutor, defense attorney, power of attorney or legal representative and an injured party if actions of the Prosecutor, defense attorney, or power of attorney or legal representative or the injured party are obviously aimed at prolonging the criminal proceedings.
(2) The High Judicial and Prosecutorial Council shall be informed of the fining of the Prosecutor, and the Bar Association shall be informed of the fining of the defense attorney.

Article 212

Information from Criminal Records

(1) Information contained in the criminal record may be revealed to the Court, the Prosecutors' Offices and bodies of internal affairs in connection with criminal proceedings conducted against a person who had been previously convicted, to competent bodies in charge of the execution of criminal sanctions and competent bodies participating in the procedure of granting amnesty, pardon or deletion of sentence.
(2) Information from the criminal record may, upon the presentation of a justifiable request, be revealed to governmental bodies if certain legal consequences incident to conviction or security measures are still in force.
(3) At their request, citizens may be given information on their criminal record if the information is necessary for exercising their rights abroad.
(4) No one has the right to demand that citizens present evidence on their being convicted or not being convicted.
(5) Provisions of Paragraphs 1 through 4 of this Article are special provisions of equal relevance for the Bosnia and Herzegovina Law on Freedom of Access to Information.

PART TWO - COURSE OF THE PROCEEDINGS

CHAPTER XIX - INVESTIGATIVE PROCEDURE

Article 213

Obligation to Report the Criminal Offense

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

Article 214

Citizens Reporting a Criminal Offense

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

Article 215

Filing a Report

(1) The report must be filed with the Prosecutor in writing or orally.
(2) If a person files an oral report concerning a criminal offense, such person shall be warned of the consequences of

providing a false report. The minutes shall be taken concerning oral report and if the report is communicated by telephone, an official note shall be made.

(3) If the report is filed with the Court, authorized official or some other court or prosecutor in Bosnia and Herzegovina, they shall accept the report and shall immediately submit the report to the Prosecutor.

Article 216

Order for Conducting an Investigation

(1) The Prosecutor shall order the conduct of an investigation if grounds for suspicion that a criminal offense has been committed exist.

(2) The order on conducting the investigation shall contain: data on perpetrator if known, descriptions of the act pointing out the legal elements which make it a crime, legal name of the criminal offense, circumstances that confirm the grounds for suspicion for conducting an investigation and existing evidence. The Prosecutor shall list in the order which circumstances need to be investigated and which investigative measures need to be undertaken.

(3) The Prosecutor shall issue order that the investigation shall not be conducted if it is evident from the report and supporting documents that a reported act is not a criminal offense, if there are no grounds to suspect that the reported person committed the criminal offense, if the statute of limitation is applicable or if the criminal offense is a subject to amnesty or pardon or if any other circumstances exist that preclude criminal prosecution.

(4) The Prosecutor shall inform the injured party and the person who reported the offense within three (3) days of the fact that the investigation shall not be conducted, as well as the reasons for not doing so. The injured party and the person who reported the offense have a right to file a complaint with the Prosecutor's Office within eight (8) days.

Article 217

Conducting an Investigation

(1) In the course of investigation, the Prosecutor may undertake all investigative actions, including the questioning of the suspect and hearing of the injured party and witnesses, crime scene investigation and reconstruction of events, undertaking special measures to protect witnesses and information and may order the necessary expert evaluation.

(2) The record on the undertaken investigative measures shall be made in accordance with this Code.

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

Article 218

Prosecutor Supervising the Work of the Authorized Officials

(1) If there are grounds for suspicion that a criminal offense has been committed that carries a prison sentence of more than five (5) years, an authorized official shall immediately inform the Prosecutor and shall under the Prosecutor's direction take the steps necessary to locate the perpetrator, to prevent the suspect or accomplice from hiding or fleeing, to detect and secure the clues to the criminal offense and objects which might serve as evidence, and to gather all information that might be of use for the criminal proceedings.

(2) If there are grounds for suspicion that the criminal offense referred to in Paragraph 1 of this Article has been committed, and the delay would pose a risk, an authorized official is obligated to carry out necessary actions in order to fulfil the tasks referred to in Paragraph 1 of this Article. When carrying out these actions, the authorized official is obligated to act in accordance with this Code. The authorized official shall be bound to inform the Prosecutor on all taken actions immediately and deliver the collected items that may serve as evidence.

(3) If there are grounds for suspicion that a criminal offense has been committed that carries a prison sentence of up to five (5) years, an authorized official shall inform the Prosecutor of all available information, actions and measures performed no later than seven (7) days after forming the grounds for suspicion that a criminal offense has been committed.

Article 219

Collection of Information

(1) In order to perform the tasks referred to in Article 218 of this Code, authorized officials may obtain the necessary information from persons; may make a necessary examination of vehicles, passengers and luggage; may restrict movement in a specified area during the time required to complete a certain action; may take the necessary steps to establish identity of persons and objects; may organize search to locate an individual or items being sought; may in the presence of a responsible individual search specified structures and premises of state authorities, public enterprises and institutions, examine specified documents belonging to state authorities or public enterprises or institutions, and take other necessary steps and actions. A record or official notes shall be kept of facts and circumstances ascertained in the taking of various actions and also concerning items which have been found or forfeited.

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

(3) In gathering information from persons, the authorized official shall act in accordance with Article 78 of this Code or in accordance with Article 86 of this Code. In that case, the records on gathered information may be used as evidence in the criminal proceedings.

(4) A person against whom any of the actions or measures referred to in this Article have been taken shall be entitled to

file a complaint with the Prosecutor's Office within a period of three (3) days. The Prosecutor shall verify the grounds of the allegations and if it is determined that the applied steps or measures contain the features of a criminal offense or a violation of the work obligation, the complaint shall be processed in accordance with the law.

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

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

Article 220

Restriction of Movement at the Scene of the Crime

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

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

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

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

Article 221

Investigation of the Crime Scene and Expert Evaluation

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

Article 222

Medical Examination, Autopsy and Exhumation

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

Article 223

Preservation of Evidence by the Court

(1) Whenever it is in the interest of justice that the witness's testimony be taken in order to use it at the main trial because the witness may be unavailable to the Court during the trial, the preliminary proceedings judge may, upon the request of the parties or the defense attorney, order that the testimony of the witness in question be taken at special hearing. The special hearing shall be conducted in accordance with Article 262 of this Code.

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

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

(4) If the preliminary proceedings judge rejects the proposal referred to in Paragraphs 1 and 3 of this Article, he shall issue a decision that can be appealed against to the Panel referred to in Paragraph 7 of Article 24 of this Code.

Article 224

Cessation of Investigation

(1) The Prosecutor shall order that the investigation of a suspect should cease if it is established that:
   a) the act committed by the suspect is not a criminal offence,
   b) the circumstances that exclude criminal liability of the suspect exist except in the case under Article 206 of this

Code,

c) there is insufficient evidence that the suspect committed a criminal offence;
d) that the act is covered by amnesty, pardon or statute of limitations or if there are some other obstacles that preclude prosecution.

(2) The Prosecutor shall inform the injured party enjoying the rights under Article 216 of this Code, the suspect if he was questioned and the person that reported the crime about the cessation and grounds for cessation of the investigation in writing.
(3) In the cases under Item c) of Paragraph 1 of this Article the Prosecutor may reopen the investigation at a later date if new facts and circumstances imply that there are grounds for suspicion that the suspect committed a criminal offence.

Article 225

Completion of Investigation

(1) The Prosecutor shall order a completion of investigation after he concludes that the status is sufficiently clarified to allow the bringing of charges. Completion of the investigation shall be noted in the file.
(2) If the investigation has not been completed within six (6) months after the order on its conducting has been issued, the Collegium of the Prosecutor's Office shall undertake necessary measures in order to complete the investigation.
(3) The indictment shall not be issued if the suspect was not questioned.

CHAPTER XX - INDICTMENT PROCEDURE

Article 226

Issuance of the indictment

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

Article 227

Contents of the indictment

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

(2) An indictment may cover more than one criminal offense or more than one suspect.
(3) If the suspect is not detained, it may be proposed in the indictment that he be detained, and if the suspect is already detained, it may be proposed to extend the detention or that he be released.

Article 228

Decision on Indictment

(1) Immediately on receipt of the indictment the preliminary hearing judge shall examine whether the Court has jurisdiction to try, whether the circumstances under Article 224 Paragraph (1) item d) of this Code exist, and whether the indictment was properly drafted (Article 227 of this Code). If the Court finds that the indictment was not properly drafted it will act in accordance with Article 148 Paragraphs (3) and (4) of this Code.
(2) The preliminary hearing judge may confirm or discharge all or some of the counts in the indictment within 8, and in complex cases within 15 days of receipt of the indictment. If the preliminary hearing judge discharges all or some of the counts he shall issue decision that will be delivered to the Prosecutor. An appeal can be filed within 24 hours. The Panel from Article 24 Paragraph (7) of this Code shall decide on this appeal within 72 hours.
(3) During the confirmation of the indictment, the preliminary proceedings judge shall examine each count in the indictment and evidence submitted by the Prosecutor in order to establish grounded suspicion.
(4) Upon confirmation of some or all counts in the indictment, the suspect shall have the status of the accused. The preliminary hearing judge shall present the accused and his defense attorney with the indictment.
(5) The preliminary hearing judge shall present the accused who is not detained with the indictment without delay, and if the accused is already detained, the preliminary proceeding judge shall present him with the indictment within 24 hours after the confirmation of the indictment. The preliminary hearing judge shall inform the accused that within

15 days of delivery of the indictment he has the right to submit the preliminary motions, that the plea hearing shall be scheduled immediately after the decision on preliminary motions is issued or after the expiration of the deadline for submission of preliminary motions, and shall request the accused to list the proposed evidence that he intends to present at the main trial.

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

Article 229

Guilty or not Guilty Plea

(1) A plea of guilty or not guilty shall be entered before the preliminary hearing judge in the presence of the Prosecutor and the defence attorney. Before the plea of guilty or not guilty the accused shall be informed about all possible consequences of plea in sense of Article 230 Paragraph (1) of this Code. In case that the accused does not have the defence attorney the preliminary hearing judge shall check whether the accused understands the consequences of plea and whether the conditions for appointment of the defence attorney in accordance with Article 45 Paragraph (5) and Article 46 of this Code exist. The Plea and the given instructions shall be entered in the record. If the accused fails to enter a plea, the preliminary hearing judge shall, *ex officio*, record that the accused enters a plea of not guilty.

(2) If the accused enters a plea of guilty, the preliminary hearing judge shall refer the case to the judge or to the Panel for scheduling the hearing at which it shall be determined whether the conditions referred to in Article 230 of this Code exist.

(3) A plea of not guilty shall never be held against the accused in fashioning a sentence if the accused is found guilty at the trial or subsequently changes his plea from not guilty to guilty.

(4) After entering a plea of not guilty into the record, the preliminary hearing judge shall refer the case to the judge or the Panel that has been assigned to try the case so that they can schedule the trial and the evidence that support the indictment shall return to the Prosecutor. The main trial shall be scheduled within 30 days from the day when the accused entered the plea of guilt. In exceptional cases, this deadline may be extended for 30 additional days.

Article 230

Deliberation on the Guilty Plea

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

a) that the plea of guilty was entered voluntarily, consciously and with understanding,
b) that the accused was informed that by his guilty plea he shall waive the right to trial,
c) that there is enough evidence proving the guilt of the suspect or the accused,
d) that the accused was informed of and understands the possible consequences in relation to the claim under property law and forfeiture of property gain obtained by commission of criminal offense,
e) that the accused was informed of the decision on reimbursement of the expenses of the criminal proceedings and that the accused may be relieved of the duty to reimburse as referred to in Article 188 Paragraph (4) of this Code.

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

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

Article 231

Plea Bargaining

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

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

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

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

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

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

a) that the agreement of guilt was entered voluntarily, consciously and with understanding, and that the accused is informed of the possible consequences, including the satisfaction of the claims under property law, forfeiture of property gain obtained by commission of criminal offense and reimbursement of the expenses of the

criminal proceedings;
b) that there is enough evidence proving the guilt of the accused;
c) that the accused understands that by agreement on the admission of guilt he waives his right to trial and that he may not file an appeal against the pronounced criminal sanction,
d) that the agreed sanction is in accordance with Paragraph 3 of this Article,
e) that the injured party was given an opportunity before the Prosecutor to give statement regarding the claim under property law.

(7) If the Court accepts the agreement on the admission of guilt, the statement of the accused shall be entered in the record and the Court shall continue with the hearing for the pronouncement of the sentence foreseen by the agreement.
(8) If the Court rejects the agreement on the admission of guilt, the Court shall inform the parties to the proceeding and the defense attorney about the rejection and say so in the record. At the same time, the date of the main trial proceedings shall be determined. The main trial shall be scheduled within 30 days. Admission of guilt from this agreement is inadmissible as evidence in the criminal proceedings.
(9) The Court shall inform the injured party about the results of the plea bargaining.

Article 232

Withdrawing the Indictment

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

Article 233

Reasons for Motion and the Decision on Motion

(1) Preliminary motions are motions that:
a) challenge jurisdiction,
b) stress the circumstances from Article 224 Paragraph (1) Item d) of this Code,
c) allege formal defects in the indictment,
d) challenge the lawfulness of evidence obtained,
e) seek joinder or separation of proceedings,
f) challenge the refusal of a request for appointment of the defense attorney pursuant to Article 46 Paragraph 1 of this Code.

(2) If the preliminary hearing judge accepts the motion from Paragraph (1) Item d) of this Article he shall decide that such evidence is removed from the case file and returned to the Prosecutor.
(3) The preliminary hearing judge who cannot participate in the proceedings shall decide the preliminary motion within 8 days. An appeal cannot be filed on the decision on the preliminary motions.

Article 233.a

Pre-trial Hearing

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

CHAPTER XXI - THE MAIN TRIAL

Section 1 – PUBLIC NATURE OF THE MAIN TRIAL

Article 234

General Public

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

Article 235

Exclusion of the Public

From the opening to the end of the main trial, the judge or the Panel of judges may at any time, *ex officio* or on motion of the parties and the defense attorney, but always after hearing the parties and the defense attorney, exclude the public for the entire main trial or a part of it if that is in the interest of the national security, or if it is necessary to preserve a national, military, official or important business secret, if it is to protect the public peace and order, to preserve morality in the democratic society, to protect the personal and intimate life of the accused or the injured or to protect the interest of a minor or a witness.

Article 236

Persons to Whom Exclusion of the Public Is Not Applicable

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

Article 237

Decision on Exclusion of the Public

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

Section 2 – DIRECTION OF THE MAIN TRIAL

Article 238

Mandatory Presence at the Main Trial

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

Article 239

Obligations of the Judge or the Presiding Judge

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

Article 240

Order of the Main Trial

The main trial shall proceed in the order set forth in this Code, but the judge or the presiding judge may order a departure from the regular order of proceedings due to special circumstances, and especially if it concerns the number of accused, the number of criminal offenses and the amount of evidence. The reasons why the main trial is not conducted in the order prescribed by the law shall be entered in the main trial record.

Article 241

Duties of the Judge or the Presiding Judge

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

Article 242

Penalties for Disruption of Order

(1) The judge or the presiding judge may exclude a person from the courtroom in order to protect the right of the accused to a fair and public trial or to maintain the dignity of trial and disturbance-free proceedings.
(2) The judge or the presiding judge may order that the accused be removed from the courtroom for a certain period if the accused persists in disruptive conduct after being warned that such conduct may result in his removal from the courtroom. The judge or the presiding judge may continue the proceedings during this period if the accused is represented by the defense attorney.
(3) Should the Prosecutor, defense attorney, injured party, legal representative, power of attorney of the injured party,

witness, expert, interpreter or other person present at the main trial disrupt the order or disobey the orders of the judge or the presiding judge to maintain the order, the judge or the presiding judge shall warn the person in question. If the warning is ineffective, the judge or the presiding judge may order that the person in question be removed from the courtroom and be fined an amount up to 10.000 KM. Should the Prosecutor or defense attorney be removed from the courtroom, the judge or the presiding judge shall refer the matter to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina or the Bar Association with which the defense attorney is affiliated, for further action.

(4) Should a defense attorney or a power of attorney of the injured continue to disrupt the order even after being fined, the judge or the presiding judge may prevent him from further representation at the main trial and fine him in the amount up to 30.000 KM. The decision on this issue with explanation shall be entered in the main trial record. An interlocutory appeal is allowed against this decision. The main trial shall be recessed or postponed to allow the accused to engage another defense attorney and prepare a defense.

Article 243

False Testimony Given by Witness or Expert

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

Section 3 – PREREQUISITES FOR HOLDING THE MAIN TRIAL

Article 244

Opening of the Session

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

Article 245

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

(1) If the Prosecutor or his substitute was duly summoned but fails to appear in the main trial, the main trial shall be postponed. The judge or the presiding judge shall request the Prosecutor or his substitute to explain his reasons for failing to appear. The judge shall decide, based on the Prosecutor's explanation, whether the Prosecutor should be sanctioned as referred to in Paragraph 2 of this Article. If the Prosecutor or his substitute is sanctioned, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina must be informed about the sanction.

(2) The judge or the presiding judge may fine the Prosecutor or his substitute an amount up to 5.000 KM if the Prosecutor or his substitute was duly summoned to the main trial by the Court but failed to appear and did not justify his absence.

Article 246

Failure of the Accused to Appear at the Main Trial

(1) If the accused was duly summoned but fails to appear and does not justify his absence, the judge or the presiding judge shall postpone the main trial and order that the accused be brought in at the next session. If the accused justifies his absence before apprehension, the judge or the presiding judge shall revoke the order of apprehension.

(2) If the accused was duly summoned but obviously avoids appearing at the main trial, and if apprehension was not successful, the judge or the presiding judge may order that the accused be placed in custody.

(3) The appeal is allowed against the decision on custody but such appeal shall not stay the execution of the Court decision on custody.

(4) If the order regarding custody is not overruled, it shall last until the pronouncement of the verdict, and at a maximum of 30 days.

Article 247

Ban of Trial in Case of Absentia

An accused may never be tried *in absentia*.

Article 248

Failure of the Defense Attorney to Appear at the Main Trial

(1) If the defense attorney was duly summoned but fails to appear in the main trial, the main trial shall be postponed. The judge or the presiding judge shall request that the defense attorney explain his reasons for failing to appear. The judge or the presiding judge shall decide, based on defense attorney's explanation, whether the defense attorney should be sanctioned. The Bar Association with which the defense attorney is affiliated shall be informed whenever the defense attorney is sanctioned under these circumstances.

(2) The judge or the presiding judge may fine the defense attorney an amount up to 5.000 KM if the defense attorney failed to appear at the main trial despite being duly summoned by the Court and failed to justify his absence.

(3) If a new defense attorney is appointed or a new one is retained for the accused, the main trail shall be postponed. The judge or the presiding judge shall grant an adequate time period to a new defense attorney for the preparation of the defense of the accused, and that time period shall be not less than 15 days for criminal offenses for which a

sentence of ten (10) years of imprisonment or more is prescribed, unless the accused waives this right and the judge or the presiding judge is assured that a shorter period for the preparation of the defense shall not interfere with the right of the accused to a fair trial.

Article 249

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

(1) If a witness or an expert was duly summoned but fails to appear and does not justify his absence, the judge or the presiding judge may order the witness or the expert to be brought in.
(2) The judge or the presiding judge may fine the witness or the expert, who was duly summoned but failed to justify his absence, an amount up to 5.000 KM.
(3) In the case referred to in Paragraph 1 of this Article, the judge or the presiding judge shall decide whether the main trial should be postponed.

Section 4 – ADJOURNMENT AND RECESS OF THE MAIN TRIAL

Article 250

Reasons for Adjournment of the Main Trial

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

Article 251

Resumption of the Adjourned Main Trial

(1) If the main trial resumes after it has been adjourned before the same judge or the Panel, the judge or the presiding judge shall briefly summarize the previous course of the proceedings. The judge or the presiding judge may order that the main trial recommence from the beginning.
(2) The main trial that has been adjourned must recommence from the beginning if the composition of the Panel has changed or if the adjournment lasted longer than 30 days but with consent of the parties and the defence attorney, the Panel may decide that in such a case the witnesses and experts shall not be examined again and that the new crime scene investigation shall not be conducted but the minutes of the crime scene investigation and testimony of the witnesses and experts given at the prior main trial shall be used.
(3) If the main trial is held before another judge or presiding judge, the main trial must commence from the beginning and all evidence must be again presented. In exceptional cases, if the main trial is held before another presiding judge, with consent of the parties and the defense attorney, the Panel may decide that the earlier presented evidence shall not be presented again.
(4) In cases from Paragraphs (2) and (3) of this Article, the judge or the Panel, without consent of the parties and the defense attorney, but after hearing parties and the defense attorney, may decide to use the testimony of the witnesses and experts given at the prior main trial as evidence if witnesses or experts died, became mentally incapacitated or unavailable or their appearance before the Court is impossible or difficult due to other reasons.

Article 252

Recess of the Main Trial

(1) Aside from the cases stipulated in this Code, the judge or the presiding judge may declare a recess of the main trial due to leave or due to the fact that the workday has ended or he may declare the recess in order to obtain certain evidence quickly or for the purpose of preparing the prosecution or defense.
(2) A recessed main trial shall always resume before the same judge or the same Panel of judges.
(3) If the main trial may not be resumed before the same judge or the same Panel of judges or if the recess of the main trial lasted longer than eight (8) days, the procedure called for in the provisions of Article 251 of this Code shall be followed.

Section 5 – MAIN TRIAL RECORD

Article 253

Manner of Keeping the Record

(1) A record of the entire course of the main trial must be kept. If the course of the main trial was recorded in accordance with Article 155 of this Code, the transcript of the undertaken action shall, upon justified request of the parties and the defense attorney, be submitted to the parties and the defense attorney no later than three days from the day of the undertaken action in the main trial. The justifiability of the request shall be decided upon by the judge or the presiding of the Panel.
(2) The judge or the presiding judge may order that a certain part of the record be read or copied, and it shall be always read or copied at the request of the parties, of the defense attorney or of a person whose statement was entered in

the record.

Article 254

Entering the Pronouncement of Verdict in the Record

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

Article 255

Preservation of Physical Evidence

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

Section 6 – COMMENCEMENT OF THE MAIN TRIAL

Article 256

Entrance of the Judge or the Presiding Judge into the Courtroom

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

Article 257

Presumptions for Holding the Main Trial

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

Article 258

Verifying the Identity of the Accused and Giving Directions

(1) The judge or the presiding judge shall obtain personal data from the accused (Article 78) in order to verify his identity.
(2) After verification of the identity of the accused, the judge or the presiding judge shall ask the parties and defense attorney whether they have any motions regarding the composition of the Panel or jurisdiction of the Court.
(3) Once the identity of the accused has been verified, the judge or the presiding judge shall direct the witnesses and experts to the space assigned to them outside the courtroom where they shall wait until called for questioning. The judge or the presiding judge shall warn the witnesses not to discuss their testimony with each other while waiting. Upon motion of the Prosecutor, the accused or the defense attorney, the judge or the presiding judge shall allow requested experts to attend the main trial.
(4) If the injured party is present, but still has not filed the claim under property law, the judge or the presiding judge shall inform the person in question that such a claim may be filed by the closing of the main trial.
(5) The judge or the presiding judge may undertake necessary measures to prevent witnesses, experts and parties from communicating with each other.

Article 259

Instructions to the Accused

(1) The judge or the presiding judge shall warn the accused to carefully follow the course of the main trial and shall instruct him that he may present facts and propose evidence in his favor, that he may question codefendants, witnesses and experts and that he may offer explanations regarding their testimony.
(2) The judge or the presiding judge shall instruct the accused that he may give a statement in the capacity of a witness during the evidentiary proceedings and if he decides to give such statement he shall be subject to direct and cross-examination as provided for in Article 262 of this Code, i.e. instructed as provided for in Article 86 of this Code. In that case, the accused as witness shall not take an oath or affirmation. The Court shall give the opportunity to the accused to consult about this right with his defense attorney beforehand, and if he does not have the defense attorney the Court shall carefully assess whether the legal assistance of a defense attorney is necessary.

Article 260

Reading of the Indictment and Opening Statements

(1) The main trial shall commence by reading of the indictment. The indictment shall be read by the Prosecutor.
(2) After the indictment has been read, the judge or the presiding judge shall ask the accused whether he has understood the charges. If the judge or the presiding judge finds that the accused has not understood the charges,

the judge or the presiding judge shall summarize the content of the indictment in a manner understandable to the accused. The Prosecutor shall then briefly state the evidence by which the Prosecutor expects to build his case.

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

Section 7 – EVIDENTIARY PROCEDURE

Article 261

Presentation of Evidence

(1) Parties and the defense attorney are entitled to call witnesses and to present evidence.

(2) Unless the judge or the Panel, in the interest of the justice, decides otherwise, the evidence at the main trial shall be presented in the following order:
   a) evidence of the prosecution;
   b) evidence of the defense;
   c) rebutting evidence of the prosecution;
   d) evidence in rejoinder to the Prosecutor's rebutting evidence;
   e) evidence whose presentation was ordered by the judge or the Panel
   f) all evidence relevant for the pronouncement of the criminal sanction..

(3) During the presentation of the evidence, direct examination, cross-examination and redirect examination shall be allowed. The party who called a witness shall directly examine the witness in question, but the judge or the presiding judge may at any stage of the examination ask the witness appropriate questions.

Article 262

Direct Examination, Cross-examination and Additional Examination of Witnesses

(1) Direct examination, cross -examination and redirect examination shall always be permitted. The party who called a witness shall directly examine the witness in question, but the judge or the presiding judge and members of the Panel may at any stage of the examination ask the witness appropriate questions. Questions on cross-examination shall be limited and shall relate to the questions asked during direct examination and to the questions in favour of his own testimony and questions in support of statements made by the party which is cross-examining that witness.. Questions on redirect examination shall be limited and shall relate to questions asked during cross-examination. After examination of the witness, the judge or the presiding judge and members of the Panel may question the witness.

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

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

(4) During the presentation of evidence referred to in Item e. Paragraph 2 of Article 261 of this Code, the Court shall question the witness and then allow the parties and the defense attorney to pose questions to the witness.

Article 263

Forbidden Questions

(1) The judge or the presiding judge shall forbid the inadmissible or the repetition of irrelevant questions as well as answers to such questions.

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

Article 264

Special Evidentiary Rules When Dealing With Cases of Sexual Misconduct

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

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

(3) In the case of the criminal offense against humanity and values protected by the international law, the consent of the victim may not be used in a favor of the defense.

(4) Before admitting evidence pursuant to this Article, the Court must conduct an appropriate hearing *in camera*.

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

Article 265

The Consequences of Accused's Confession

If a confession of the accused during the main trail is complete and in accordance with previosuly presented evidence,

then, in the evidentiary proceeding, only evidence related to the decision on criminal sanction shall be presented.

Article 266

Taking an Oath or Affirmation

(1) All witnesses shall take an oath or affirmation replacing an oath before testifying.
(2) The text of the oath or the affirmation is as follows: "I swear or affirm that I shall speak the whole truth regarding everything that I shall be asked before the Court and shall not fail to reveal anything known to me."
(3) Mute witnesses who are able to read and write shall take an oath by signing the text of the oath or affirmation, and deaf witnesses shall read the text of the oath or affirmation. If mute or deaf witnesses are not able to read or write, the oath or affirmation shall be given through an interpreter.

Article 267

Protection of Witnesses from Insults, Threats and Attacks

(1) The judge or the presiding judge is obligated to protect the witness from insults, threats and attacks.
(2) The judge or the presiding judge shall warn or fine a participant in the proceedings or any other person who insults, threatens or jeopardizes the safety of the witness before the Court. In the case of the fine, provisions of Article 242, Paragraph 1 of this Code shall be applied.
(3) In the case of a serious threat to a witness, the judge or the presiding judge shall inform the Prosecutor for the purpose of undertaking criminal prosecution.
(4) At the petition of the parties or the defense attorney, the judge or the presiding judge shall order the police to undertake measures necessary to protect the witness.

Article 268

Sanctions for Refusing to Testify

(1) If the witness refuses to testify without providing a justified reason and after being warned of the consequences, the witness may be fined an amount up to 30.000 KM.
(2) If the witness still refuses to testify, the witness may be imprisoned. Imprisonment shall last until the witness agrees to testify, or until his testimony becomes irrelevant or until the finalization of the criminal proceedings but not longer then 30 days.
(3) The Panel (Article 24 Paragraph 7 of this Code) shall decide on appeal filed against the decision on fine or imprisonment. An appeal against the decision on fine and imprisonment shall not stay the execution of the decision.

Article 269

Engagement of the Expert

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

Article 270

Examination of the Experts

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

Article 271

Discharging Witnesses and Experts

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

Article 272

Examination out of the Court

(1) If it is learned during the proceedings that a witness or expert is not able to appear before the Court or that his appearance would be of great difficulty, the judge or the presiding judge, if he deems the testimony of witness and expert important, may order that he be examined out of the Court. The judge or the presiding judge, the parties and the defense attorney shall be present at the examination, and the examination shall be conducted in accordance with Article 262 of this Code.
(2) If the judge or the presiding judge finds it necessary, the examination of the witness may be carried out during a reconstruction of the criminal offense out of the Court. The judge or the presiding judge, the parties and the defense

attorney shall be present at the reconstruction, and the examination shall be carried out in accordance with Article 262 of this Code.

(3) The parties, defence attorney and injured party shall always be invited to attend the examination of witnesses or the reconstruction. Examination shall be carried out as it is at the main trial in accordance with Article 262 of this Code.

(4) If the judge or the presiding judge finds it necessary, the examination of minors as witnesses shall be carried out in accordance with Article 86, Paragraph 6, and Article 90 of this Code.

Article 273

Exceptions from the Imminent Presentation of Evidence

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

(2) Notwithstanding Paragraph 1 of this Article, records on testimony given during the investigative phase, and if judge or the Panel of judges so decides, may be read or used as evidence at the main trial only if the persons who gave the statements are dead, affected by mental illness, cannot be found or their presence in Court is impossible or very difficult due to important reasons.

(3) If the accused during the main trial exercises his right not to present his defence or not to answer questions he is asked, records of testimonies given during the investigation may, upon decision of the judge or the presiding judge, be read and used as evidence in the main trial, only if the accused was, during his questioning at investigation, instructed as provided for in Article 78 Paragraph (2) Item (c) of this Code.

Article 274

Records on Evidence

(1) Records concerning the crime scene investigation, the search of dwellings and persons, the forfeiture of things, books, records and other evidence, shall be introduced at the main trial in order to establish their content, and at the discretion of the judge or presiding judge, their content may be entered in the record in summarized version.

(2) To prove the content of writing, recording or photograph, the original writing, recording or photograph is required, unless otherwise stipulated by this Code.

(3) Notwithstanding Paragraph 2 of this Article, a certified copy of the original may be used as evidence or the copy verified as unchanged with respect to the original.

(4) Evidence referred to in Paragraph 1 of this Article shall be read unless the parties and the defense attorney do not agree otherwise.

Article 275

Amendment of the Indictment

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

Article 276

Supplement to the Evidentiary Proceedings

(1) After the presentation of evidence, the judge or the presiding judge shall ask the parties and defense attorney if they have additional evidentiary motions.

(2) If the parties or the defense attorney has no evidentiary motions, the judge or the presiding judge shall declare the evidentiary proceedings completed.

Article 277

Closing Arguments

(1) Upon the completion of the evidentiary proceedings, the judge or the presiding judge shall call for the Prosecutor, injured party, defense attorney and the accused to present their closing arguments. The last words shall be always given to the accused.

(2) If the prosecution is represented by more than one Prosecutor and if the accused is represented by more than one defense attorney, all Prosecutors and defense attorneys may give their closing arguments, but their closings may not be repetitive.

Article 278

Closing the Main Trial

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

CHAPTER XXII - THE VERDICT

Section 1 – PRONOUNCEMENT OF THE VERDICT

Article 279

Pronouncement and Announcement of the Verdict

The verdict shall be pronounced and announced in the name of Bosnia and Herzegovina.

Article 280

Correspondence between the Verdict and Charges

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

Article 281

Evidence on Which the Verdict is grounded

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

Section 2 – TYPES OF VERDICTS

Article 282

Meritory and Procedural Verdicts

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

Article 283

Verdict Dismissing the Charges

The Court shall pronounce the verdict dismissing the charges in following cases:
a) if the Court is not competent to reach the verdict;
b) if the Prosecutor dropped the charges between the beginning and the end of the main trial;
c) if there was no necessary approval or if the competent state body revoked the approval;
d) if the accused has already been convicted by a legally binding decision of the same criminal offense or has been acquitted of the charges or if proceedings against him have been dismissed by a legally binding decision, provided that the decision in question is not the decision on dismissing the procedure referred to in Article 326 of this Code;
e) if by an act of amnesty or pardon, the accused has been exempted from criminal prosecution or if criminal prosecution may not be undertaken due to the statute of limitation or if there are other circumstances which permanently preclude criminal prosecution.

Article 284

Verdict Acquitting the Accused

The Court shall pronounce the verdict acquitting the accused of the charges in the following cases:
a) if the act with which he is charged does not constitute a criminal offense under the law;
b) if there are circumstances which exclude criminal responsibility;
c) if it is not proved that the accused committed the criminal offense with which he is charged.

Article 285

Guilty Verdict

(1) In a guilty verdict, the Court shall pronounce the following:
   a) the criminal offense for which the accused is found guilty along with a citation of the facts and circumstances that constitute the elements of the criminal offense and those on which the application of a particular provision of the Criminal Code depends;
   b) the legal name of the criminal offense and the provisions of the Criminal Code that was applied;
   c) the punishment to which the accused is sentenced or released from punishment under the provisions of the Criminal Code;
   d) a decision on suspended sentence;
   e) a decision on security measures and forfeiture of property gain and a decision on return of objects (Article 74) if such objects have not been returned to their owner or the possessor;
   f) a decision crediting pretrial custody or time already served;
   g) a decision on costs of criminal proceedings and on a claim under property law, and the decision that the legally binding verdict shall be announced in the press, or radio or television;

(2) If the accused has been fined, the verdict shall indicate the deadline for payment, or way to substitute the fine in

case that the accused does not pay.

Section 3 – ANNOUNCEMENT OF THE VERDICT

Article 286

Date and Place of the Verdict's Announcement

(1) After the pronouncement of the verdict, the Court shall announce the verdict immediately. If the Court is unable to pronounce the verdict the same day the main trial was completed, the judge may postpone the announcement of the verdict for a maximum of three (3) days and shall set the date and place when the verdict shall be announced.
(2) The Court shall read the pronouncement of the verdict in the presence of the parties, the defense attorney, legal representatives and the power of attorneys and briefly explain it.
(3) The verdict shall be announced even if the parties, the defense attorney, legal representative or power of attorney are not present. The Court may decide that the judge or the presiding judge shall orally announce the verdict to the accused absent during the announcement or that the verdict only be served on the accused.
(4) If the public has been excluded from the main trial, the verdict must be read in a public session. The Panel of judges shall decide whether and to what extent the public shall be excluded when announcing the reasons for the verdict.
(5) All those present shall stand to hear the reading of the verdict.

Article 287

Custody After Pronouncement of the Verdict

Provisions of Article 138 of this Code shall apply when ordering, extending or terminating the custody after the announcement of the verdict.

Article 288

Instructions on the Right to Appeal and Other Instructions

(1) Upon the announcement of the verdict, the judge or the presiding judge shall instruct the accused and the injured party on their right to appeal, and on the right to answer the appeal.
(2) If the accused has been given a suspended sentence, the judge or presiding judge shall caution him as to the significance of a suspended sentence and conditions to which he must adhere.
(3) The judge or the presiding judge shall warn the accused that he must notify the Court regarding every change of the address until the legally binding completion of the proceeding.

Section 4 – WRITTEN PRODUCTION AND THE DELIVERY OF THE VERDICT

Article 289

Written Production of the Verdict

(1) An announced verdict must be prepared in writing within 15 days from its announcement, and in complicated matters and as an exception, within 30 days. If the verdict has not been prepared by these deadlines, the judge or the presiding judge is obligated to inform the President of the Court as to why this has not been done. The President of the Court shall, if necessary, undertake the necessary measures to have the verdict written as soon as possible.
(2) The judge or the presiding judge and the minutes taker shall sign the verdict.
(3) A certified copy of the verdict shall be delivered to the Prosecutor and to the injured party, and it shall be delivered to the accused and the defense attorney pursuant to Article 171 of this Code. If the accused is in custody, certified copies of the verdict must be sent within the time periods stipulated in Paragraph 1 of this Article.
(4) The instructions on right to appeal shall be also delivered to the accused and the injured party.
(5) The Court shall deliver a certified copy of the verdict, with instructions as to the right to appeal, to a person who owns an article forfeited under the verdict in question and to a legal person against whom forfeiture of property gain was pronounced. The legally binding verdict shall be delivered to the injured party.

Article 290

The Contents of the Verdict

(1) A written verdict must fully correspond to the announced verdict. The verdict must have an introductory part, the pronouncement and the opinion.
(2) Introductory part of the verdict shall contain the following: a statement that the verdict is pronounced in the name of Bosnia and Herzegovina, the name of the Court, first and last name of the presiding judge and judges in the Panel and the minutes taker, first and last name of the accused, the criminal offense for which the accused is charged and whether the accused was present at the main trial, the date of the main trial and whether the main trial was public, first and last name of the prosecutor, defense attorney, legal representative and power of attorney who were present at the main trial and the date when the pronounced verdict was announced.
(3) The pronouncement of the verdict shall contain the personal data of the accused and the decision declaring the accused guilty of the criminal offense for which he is charged or the decision acquitting him of the charge of the criminal offense in question or the decision rejecting the charge.
(4) If the accused is found guilty, the pronouncement of the verdict must include the necessary data referred to in Article 285 of this Code, and if the accused is acquitted of the charge or the charge is rejected, the pronouncement

of the verdict must include a description of the criminal offense for which the accused is charged and a decision on the costs of a criminal proceeding and a claim under property law if such was made.

(5) In the case of merger of criminal offenses, the Court shall incorporate in the pronouncement of the verdict the penalties mandated for each individual criminal offense and then the one sentence pronounced for all the criminal offenses.

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

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

(8) If the accused has been sentenced to punishment, the opinion shall state the circumstances the Court considered in fashioning the punishment. The Court shall specifically present the reasons which guided the Court when it decided on a more severe punishment than that prescribed, or when it decided that the punishment should be mitigated or the accused released from the punishment or when the Court has pronounced a suspended sentence or has pronounced a security measures or forfeiture of property gain.

(9) If the accused is acquitted of the charge, the opinion shall specifically state on what grounds referred to in Article 284 of this Code the acquittal is based.

(10) In the opinion of a verdict rejecting the charge, the Court shall not assess the main issue, but shall restrict itself solely to the grounds for rejecting the charge.

Article 291

Corrections in the Verdict

(1) Errors in names and numbers and other obvious errors in writing and arithmetic, formal defects and disagreements between the written copy of the verdict and the original verdict shall be corrected through a special decision by the judge or the presiding judge, on the motion of the parties and defense attorney or *ex officio*.

(2) If there is a discrepancy between the written copy of the verdict and the original of the verdict with respect to Article 285, Paragraph 1, Items a) through e) and Item g) of this Code, the decision on the correction shall be delivered to the persons referred to in Article 289 of this Code. In that case, the period allowed for appeal shall commence on the date of delivery of the decision against which no interlocutory appeal is allowed.

CHAPTER XXIII

REGULAR LEGAL REMEDIES

Section 1 – APPEAL AGAINST THE FIRST INSTANCE VERDICT

Article 292

Right to Appeal and the Deadline for Appeal

(1) An appeal may be filed against the verdict rendered in the first instance within 15 days from the date when the copy of the verdict was delivered.

(2) In complex matters, the Court may, on the motion of the parties or the defense attorney, extend the deadline for filing an appeal for a maximum of 15 days.

(3) Until the Court renders a decision on a motion referred to in Paragraph 2 of this Article, the deadline for filing an appeal shall not run.

(4) An appeal filed on time shall stay the execution of the verdict.

Article 293

Subjects of the Appeal

(1) The parties, the defense attorney and the injured party may file an appeal.

(2) An appeal on behalf of the accused may also be filed by his legal representative, spouse or extramarital partner, *parent or child and adoptive parent or adopted child*. In this case, the period allowed for the appeal shall run from the day when the accused or his defense attorney was delivered a copy of the verdict.

(3) The Prosecutor may file an appeal to the detriment or to the benefit of the accused.

(4) The injured party may contest the verdict only with respect to the decision of the Court on costs of the criminal proceedings and with respect to the decision on the claim under property law.

(5) An appeal may also be filed by a person whose item was forfeited or from whom the property gain obtained by a criminal offense was forfeited.

(6) The defense attorney and persons referred to in Paragraph 2 of this Article may file an appeal even without the separate authorization of the accused, but not against the accused's will, unless a sentence of long period imprisonment was pronounced on the accused.

Article 294

Waiving and Abandoning an Appeal

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

Article 295

Contents of Appeal and Removing the Shortcomings of the Appeal

(1) An appeal should include:
   a) an indication of the verdict being appealed, including the name of the Court, the number and the date of the verdict;
   b) the grounds for contesting the verdict;
   c) the reasoning behind the appeal;
   d) a proposal for the contested verdict to be fully or partially reversed, or revised;
   e) at the end, the signature of the appellant.
(2) If an appeal has been filed by the accused or another person referred to in Article 293, Paragraph 2 of this Code, and the accused does not have defense attorney, or if the appeal has been filed by an injured party who has no power of attorney, and the appeal has not been drawn up in conformity with the provisions of Paragraph 1 of this Article, the Court shall call upon the appellant to supplement the appeal in writing or orally with the Court by a certain date. If the appellant fails to respond, the Court shall reject the appeal if it does not contain the data referred to in Item b), c), and e) of Paragraph 1 of this Article; if the appeal does not contain the data referred to in Item a) of Paragraph 1 of this Article, it shall be rejected if it cannot be ascertained to what verdict it pertains. If the appeal has been filed in favor of the defendant, it shall be delivered to the Panel of the Appellate Division if it can be established to what verdict it pertains, otherwise, the appeal shall be rejected.
(3) If an appeal was filed by the injured party who is represented by a power of attorney or filed by the Prosecutor, and an appeal does not contain the data referred to in Items b), c), and e) of Paragraph 1 of this Article or data referred to in Item a) of Paragraph 1 of this Article, and it cannot be ascertained to what verdict the appeal pertains, the appeal shall be rejected. An appeal that lacks the aforesaid data filed in the favor of the accused who is represented by the defense attorney, shall be delivered to the Panel of Appellate Division if it can be ascertained to what verdict the appeal pertains, and if it can not be ascertained, then it shall be rejected.
(4) New facts and new evidence, which despite due attention and cautiousness were not presented at the main trial, may be presented in the appeal. The appellant must cite the reasons why he did not present them previously. In referring to new facts, the appellant must cite the evidence that would allegedly prove these facts; in referring to new evidence, he must cite the facts that he wants to prove with that evidence.

Article 296

Grounds for Appeal

A verdict may be contested on the grounds of:
   a) an essential violation of the provisions of criminal procedure;
   b) a violation of the criminal code;
   c) the state of the facts being erroneously or incompletely established;
   d) the decision as to the sanctions, the forfeiture of property gain, costs of criminal proceedings, claims under property law and announcement of the verdict through the media.

Article 297

Essential Violations of the Criminal Procedure Provisions

(1) The following constitute an essential violation of the provisions of criminal procedure:
   a) if the Court was improperly composed in its membership or if a judge participated in pronouncing the verdict who did not participate in the main trial or who was disqualified from trying the case by a final decision;
   b) if a judge who should have been disqualified participated in the main trial;
   c) if the main trial was held in the absence of a person whose presence at the main trial was required by law, or if in the main trial the defendant, defense attorney or the injured party, in spite of his petition was denied the use of his own language at the main trial and the opportunity to follow the course of the main trial in his language;
   d) if the right to defense was violated;
   e) if the public was unlawfully excluded from the main trial;
   f) if the Court violated the rules of criminal procedure on the question of whether there existed an approval of the competent authority;
   g) if the Court reached a verdict and was not competent, or if the Court rejected the charges improperly due to a lack of competent jurisdiction;
   h) if, in its verdict, the Court did not entirely resolve the contents of the charge;

i) if the verdict is based on evidence that may not be used as the basis of a verdict under the provisions of this Code;
j) if the charge has been exceeded;
k) if the wording of the verdict was incomprehensible, internally contradictory or contradicted the grounds of the verdict or if the verdict had no grounds at all or if it did not cite reasons concerning the decisive facts.

(2) There is also a substantial violation of the principles of criminal procedure if the Court has not applied or has improperly applied some provisions of this Code or during the main trial or in rendering the verdict, and this affected or could have affected the rendering of a lawful and proper verdict.

Article 298

Violations of the Criminal Code

The following points shall constitute a violation of the Criminal Code:

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

Article 299

Incorrectly or Incompletely Established Facts

(1) A verdict may be contested because the state of the facts has been incorrectly or incompletely established when the Court has erroneously established some decisive fact or has failed to establish it.

(2) It shall be taken that the state of facts has been incompletely established when new facts or new evidence so indicates.

Article 300

Decision on the Sentence, the Costs of the Proceeding, the Claim under Property Law and the Announcement of the Verdict

(1) A verdict may be contested because of the decision on the sentence and suspended sentence if the sentence did not exceed legal authority, but the Court did not correctly fashioned the punishment in view of the circumstances that had a bearing on greater or lesser punishment, and also may be contested because the Court applied or failed to apply provisions concerning mitigation of punishment, release from punishment or suspension of sentence though the legal conditions for that existed.

(2) A decision invoking a security measure or forfeiture of property gain may be contested if there is no violation of the law under Article 298, Item e) of this Code, but the Court incorrectly rendered that decision or did not pronounce a security measure or forfeiture of property gain though the legal conditions for that existed. These same reasons may be the grounds for contesting a decision on the costs of the criminal proceedings.

(3) A decision on a claim under property law and a decision on announcing the verdict through the media may be contested when the Court has rendered the decision on these matters contrary to the provisions of law.

Article 301

Filing an Appeal

(1) The appeal shall be filed with the Court in a sufficient number of copies for the Court, for the adverse party and defense attorney to prepare a response.

(2) The judge or the presiding judge shall issue a decision rejecting an appeal that is late (Article 311) or inadmissible (Article 312).

Article 302

An Answer to Appeal

A copy of the appeal shall be submitted to the adverse party and to defense attorney (Article 171) who, within eight (8) days of the date of receipt of the appeal, may file their response to the appeal with the Court. Along with the entire record and the transcript of the records from the main trial, the appeal and the response to the appeal, shall be submitted to the Appellate Division.

Article 303

Reporting Judge

(1) When the documents pertaining to the appeal reach the Appeal Division of the Court, the presiding judge of the Appellate Devision shall refer the documents to the presiding judge of the Appellate Panel who shall appoint a reporting judge.

(2) The reporting judge may, if necessary, obtain the report on violations of the provisions of criminal procedure from the judge or the presiding judge of the Panel who rendered a contested verdict, and the reporting judge may inspect the contents of the appeal with respect to new evidence and new facts and obtain necessary reports or documents.

(3) When a reporting judge prepares the documents, the presiding judge of the Panel shall schedule a session of the Panel.

Article 304

Session of the Panel

(1) The Prosecutor, the accused and his defense attorney shall be informed about the session of the Panel.
(2) If the accused is in custody or serving the sentence, his presence shall be ensured.
(3) The session shall open with the presentation of the complainant, and then the other party shall present the answer to the appeal. The Panel may request for any necessary explanation regarding the appeal and the answer to appeal from the parties and the defense attorney present at the session. The parties and the defense attorney may propose that certain documents be read and may, upon the permission from the presiding judge of the Panel, present any necessary explanation for their points in the appeal, or the answer to the appeal without being repetitive.
(4) Failure of the parties and the defense attorney to appear at the session despite being duly summoned shall not preclude the session from being held.
(5) The public may be excluded from the session of the Panel at which the parties and the defense attorney are present only under the conditions stipulated in this Code (from Article 235 through Article 237).
(6) The record of the Panel session shall be added to the case file.
(7) The decision referred to in Article 311 and Article 312 of this Code may be rendered even without informing the parties and the defense attorney about the session of the Panel.

Article 305

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

(1) The Panel of the Appellate Division shall render a decision in a session of the Panel or on the basis of a hearing.
(2) The deadlines from Article 289 Paragraph 1 of this Code shall apply to preparation of the written decision rendered in a session of the Panel.

Article 306

Limits in Reviewing the Verdict

The Panel of the Appellate Division shall review the verdict only insofar as it is contested by the appeal.

Article 307

Ban *Reformatio in Peius*

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

Article 308

Extended Effect of the Appeal

An appeal filed in favor of the accused due to the state of the facts being erroneously or incompletely established or due to the violation of the Criminal Code shall also contain an appeal of the decision concerning the punishment and forfeiture of the property gain (Article 300).

Article 309

Beneficium cohaesionis

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

Article 310

Decisions on the Appeal

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

Article 311

Rejecting the Appeal for Being Late

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

Article 312

Rejecting the Appeal as Inadmissible

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

Article 313

Refusing the Appeal

The Panel of the Appellate Division shall issue a verdict refusing the appeal as unfounded and confirm the verdict of the

first instance when it finds that the grounds on which the verdict is contested by the appeal do not exist.

Article 314

Revision of the First Instance Verdict

(1) By honoring an appeal, the Panel of the Appellate Division shall render a verdict revising the verdict of the first instance if the Panel deems that the decisive facts have been correctly ascertained in the verdict of the first instance and that in view of the state of the facts established, a different verdict must be rendered when the law is properly applied, according to the state of the facts and in the case of violations as per Article 297, Paragraph 1, Item f) g) and j) of this Code.
(2) If due to the revision of the first instance verdict, conditions to order or to terminate the custody pursuant to Article 138, Paragraph 1 and 2 of this Code have been fulfilled, the Panel of the Appellate Division shall issue a separate decision against which an appeal is not allowed.

Article 315

Revoking the First Instance Verdict

(1) By honoring the appeal, the Panel of the Appellate Division shall revoke the first instance verdict and hold a trial if the Panel finds that:
   a) major violations of the provisions of the criminal procedure exist, except cases referred to in Article 314, Paragraph 1 of this Code;
   b) it is necessary to present new evidence or repeat the evidence presented in the first instance proceedings that caused the state of facts to be erroneously and incompletely established.
(2) The Panel of the Appellate division may also partially revoke the first instance verdict if the certain parts of the verdict can be severed out without causing a detriment to a rightful verdict, and the Panel may hold a trial concerning the certain parts in question.
(3) If the accused is in custody, the Panel of the Appellate Division shall review whether the grounds for custody still exist and the Panel shall issue a decision on extension or termination of the custody. An appeal is not allowed against this decision.
(4) If the accused is in custody, the Panel of the Appellate Division is obligated to issue a decision not later than three (3) months, and in complex cases not later than 6 months from the day the Panel received documents.

Article 316

Opinion in the Decision on Revoking the First Instance Verdict

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

Article 317

Hearing Before the Panel of the Appellate Division

(1) Provisions that apply to the main trial in the first instance proceeding shall be accordingly applied to a hearing before the Panel of the Appellate Division.
(2) If the Panel of the Appellate Division finds that it is necessary to repeat the evidence presented in the first instance proceedings, testimony of examined witnesses and experts and written findings and opinions of experts shall be admitted as evidence and may be read or reproduced if those witnesses and experts were cross-examined by the opposing party or the defence attorney or they were not cross-examined by the opposing party or the defence attorney although this was made possible as well as in cases otherwise provided by this Code, or if it is about the evidence referred to in Item e, Paragraph 2 of Article 261 of this Code.
(3) The provision referred to in Paragraph 2 of this Article shall not relate to privileged witnesses referred to in Article 83 of this Code.

Section 1a – APPEAL AGAINST APPELLATE DIVISION VERDICT

Article 317 a
General Provision

(1) An appeal is admitted against the verdict of the Appellate Division in the following cases:
   a) if the Appellate Panel modified a verdict of acquittal of the court in the first instance and pronounced a verdict finding the accused guilty,
   b) if on the basis of the appeal to the acquittal verdict the Appellate Panel in a hearing pronounced a verdict finding the accused guilty.
(2) An appeal against an Appellate Division verdict shall be ruled on by the Panel in the third instance composed of three judges.
(3) The provisions of Article 309 of this Code shall also apply to the co-accused who did not file an appeal against a verdict in the second instance.
(4) A hearing may not be held before this Panel.

Section 2 – AN APPEAL AGAINST THE DECISION

Article 318

Appeals Permitted against the Decision

(1) The parties, the defense attorney and persons whose rights have been violated may always file an appeal against the decision of the Court rendered in the first instance unless when it is explicitly prohibited to file an appeal under this Code.
(2) A decision rendered in order to prepare the main trial and the verdict may be contested only in an appeal against the verdict.

Article 319

General Deadline for Filing the Appeal

(1) An appeal shall be filed with the Court.
(2) Unless this Code stipulates otherwise, an appeal against the decision shall be filed within three (3) days from the day the decision was delivered.

Article 320

Execution Suspended by an Appeal

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

Article 321

Deciding the Appeal against the First Instance Decision

(1) Unless otherwise stipulated in this Code, the Panel of the Appellate Division shall decide an appeal against the decision rendered in the first instance.
(2) Unless otherwise stipulated in this Code, the Panel referred to in Article 24, Paragraph 7 of this Code shall decide an appeal against the decision rendered by the preliminary hearing judge.
(3) In deciding an appeal, in its decision the Court may reject the appeal as late or inadmissible, may refuse an appeal as unfounded or may admit an appeal and revise the decision or revoke the decision and, if necessary, refer the case for retrial.

Article 322

Applying Provisions Appropriately on Appeal against the First Instance Verdict

Provisions of Article 293, 295 and Paragraph 2 of Article 301, Paragraph 1 of Article 303, Article 306, Article 307 and Article 309 of this Code shall be appropriately applied when deciding an appeal against the decision.

Article 323

Applying Provisions of This Code Appropriately on Other Decisions

Unless otherwise stipulated under this Code, provisions of the Article 318 and Article 322 of this Code shall be appropriately applied to all other decisions rendered in accordance with this Code.

CHAPTER XXIV

EXTRAORDINARY LEGAL REMEDY

~~SECTION 1~~ (deleted)

REPEATING THE CRIMINAL PROCEEDINGS

Article 324

General Provision

A criminal proceeding that was completed with a legally binding decision or verdict may be repeated on the petition of an authorized person only in cases and under the conditions provided by this Code.

Article 324.a

Repetition of a Criminal Proceedings

(1) The verdict may be modified without repetition of the criminal proceedings if two or more verdicts against the same convict rendered several valid penalties and provisions on pronouncing a single new sentence for merger of crimes were not applied.
(2) In the case referred to in Paragraph 1 of this Article the court shall, with this new verdict, modify the previous verdict with respect to the decision on sentencing and pronounce a single penalty. The court in the first instance which tried the case in which the strictest type of penalty was pronounced has competent jurisdiction to issue the new verdict, and if the penalties were of the same kind, that court has competent jurisdiction which pronounced the highest penalty; and if the penalties are equal in that respect, that court has competent jurisdiction which was the last to pronounce a penalty.
(3) The new verdict shall be rendered by the court in a session of the panel on petition of the competent prosecutor or the convicted or the defence attorney, but after hearing the adverse party.

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

Article 325

Resumption of the Criminal Proceeding

If a criminal proceeding was dismissed by a legally binding decision or the charges were rejected by a legally binding verdict due to a lack of permission otherwise required by this Code, the proceeding shall resume at the petition of the Prosecutor upon termination of the reasons for rendering the aforesaid decision.

Article 326

Reopening a Proceeding Completed by a Legally Binding Decision

(1) Except for the cases referred to in Article 325, if a criminal proceeding was dismissed by a legally binding decision prior to the main trial, the criminal proceeding may be repeated on a petition of the Prosecutor if new evidence is introduced enabling the Court to ascertain that the conditions to reopen the criminal proceeding have been fulfilled.
(2) A criminal proceeding that was dismissed by a legally binding decision prior to the commencement of the main trial may be reopened if the Prosecutor dropped the charges and it is proven that the Prosecutor dropped the charges in connection with the criminal abuse of his official post of Prosecutor. The provision of Article 327, Paragraph 2 of this Code shall be applied when proving the criminal offense committed by the Prosecutor.

Article 327

Reopening the Proceedings for the Benefit of the Accused

A criminal proceeding that was completed by a legally binding verdict may be reopened in favor of the accused:

a) if it is proven that the verdict was based on a false document or on the false testimony of a witness, expert or interpreter;
b) if it is proven that the verdict came about because of a criminal offense committed by the judge or person who performed the investigation;
c) if new facts are presented or new evidence submitted, which despite the due attention and cautiousness were not presented at the main trial, and which in themselves or in relation to the previous evidence would tend to bring about the acquittal of the person who has been convicted or his conviction under a less severe criminal law;
d) if an individual has been tried more than once for the same action or if more than one person has been convicted of an of an action which could have been performed by only one person or by some of them;
e) if, in the case of a conviction for a continuous criminal offense or for another criminal offense that on the basis of the law covers several actions of the same kind or several actions of different kinds, new facts are presented or new evidence is submitted that shows that the accused did not commit an action included in the criminal offense covered by the conviction, and the existence of those facts would have essentially affected the fashioning of punishment;
f) if the Constitutional Court of Bosnia and Herzegovina, the Human Rights Chamber or the European Court for Human Rights establish that human rights and basic freedoms were violated during the proceeding and that the verdict was based on these violations;
g) In the cases referred to in Items a) and b) of Paragraph 1 of this Article, it must be proven by a legally binding verdict that these persons in question were found guilty of the criminal offenses in question. If the proceeding against these persons could not be conducted because they have died or because circumstances exist which preclude criminal prosecution, the facts referred to in Items a) and b) of the Paragraph 1 of this Article may be established with other evidence as well.

Article 328

Reopening the Proceeding to the Detriment of the Accused

(1) A criminal proceeding may be reopened to the detriment of the accused if the verdict refusing the indictment was rendered due to the withdrawal of the Prosecutor from the indictment, and it is proven that this withdrawal was brought about by the criminal offense of corruption or criminal offense of abuse of the official post or other responsible duty by the Prosecutor.
(2) In the case referred to in Paragraph 1 of this Article, the provision of Article 327, Paragraph 2 of this Code shall be applied.

Article 329

Persons Authorized to File a Petition

(1) A petition to reopen a criminal proceeding may be filed by the parties and the defense attorney, and following the death of the accused the petition may be filed in his favor by the Prosecutor and by the persons cited in Article 293, Paragraph 2, of this Code.
(2) A petition to reopen a criminal proceeding in favor of a convicted person may be filed even after the convicted person has served his sentence and regardless of the statute of limitation, amnesty or pardon.
(3) If the Court learns that a reason exists for reopening a criminal proceeding, the Court shall so inform the convicted person or the person authorized to file the petition on his behalf.

Article 330

Proceedings With Respect to the Petition

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

Article 331

Deciding of the Petition

(1) The Court shall reject the petition in a decision if, on the basis of the petition itself and the record of the prior proceeding, it finds that the petition was filed by an unauthorized person or that there are no legal conditions for reopening the proceeding, or because the facts and evidence on which the petition is based have already been presented in a previous petition for reopening the proceedings that were refused by a valid decision of the Court, or if the facts and evidence obviously are not adequate to provide a basis for reopening the proceeding, or if the petitioner did not conform with Article 330, Paragraph 2 of this Code.
(2) Should the Court not reject the petition, it shall serve a copy of the petition on the adverse party who has the right to answer the petition within eight (8) days. When the Court receives an answer or when the deadline for giving the answer is overdue, the presiding judge of the Panel shall order a review of the facts and collection of the evidence called for in the petition and in the answer to the petition.
(3) After the review has been conducted, the Court shall issue a decision in which it rules on the petition for reopening the proceeding as set in Article 332 Paragraph (2) of this Code.

Article 332

Permission to Reopen the Proceeding

(1) If the Court does not order an extended review, the Court shall admit the petition and allow the criminal proceeding to be reopened or the Court shall reject the petition if it finds that the new evidence is not enough to reopen the criminal proceeding.
(2) If the Court finds that there are grounds for allowing the proceeding to be reopened on behalf of the accused and also on behalf of a co-accused who did not file a petition to reopen the proceeding, the Court shall *ex officio* proceed as though such petition had been filed for the co-accused.
(3) In the decision on reopening the criminal proceeding, the Court shall order that a new main trial be scheduled immediately.
(4) If the petition to reopen a criminal proceeding has been filed on behalf of a convicted person, and the Court deems in view of the evidence submitted that in the reopened proceeding the convicted person may receive such a punishment that would call for his release once time already served had been credited, or that he might be acquitted of the charge, or that the charge might be rejected, it shall order that execution of the verdict be postponed or terminated.
(5) When a decision calling for the reopening of a criminal proceeding becomes legally binding, execution of the penalty shall be stayed, but on the recommendation of the Prosecutor the Court shall order custody if the conditions exist as referred to in Article 132 of this Code.

Article 333

The Rules of the Reopened Proceeding

(1) The provision applicable to the preliminary proceedings shall also apply to the new reopened criminal proceeding that is being carried out on the basis of the decision to reopen the criminal proceeding. During the new proceeding, the Court shall not be bound by the decisions rendered in the previous proceeding.
(2) If the new proceeding should be suspended before the main trial commences, the Court shall revoke the prior verdict in the decision on suspending the proceeding.
(3) When the Court renders a verdict in the new proceeding, the Court shall pronounce that the prior verdict is being partially or in whole set aside, or shall pronounce that the prior verdict remains valid. When the Court pronounces the new verdict, the Court shall give the accused credit for time served in the sentence, and if reopening of the proceeding was ordered only for some of the criminal offenses of which the accused has been convicted, the Court shall pronounce a single new sentence.
(4) In the new proceeding, the Court shall be bound by the prohibition set forth in Article 307 of this Code.

PART THREE-SPECIAL PROCEDURES

CHAPTER XXV

PROCEDURE FOR ISSUING THE WARRANT FOR PRONOUNCEMENT OF SENTENCE

Article 334

General Provision

(1) For criminal offenses for which the law prescribes a prison sentence up to five (5) years or a fine as the main sentence, for which the Prosecutor has gathered enough evidence to provide grounds for the Prosecutor's allegation that the suspect has committed the criminal offense, the Prosecutor may request, in the indictment, from the Court to issue a warrant for pronouncement of the sentence in which a certain sentence or measure shall be pronounced to the accused without holding the main hearing.

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

(3) A fine may be requested in an amount that shall not exceed 50.000 KM.

Article 335

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

(1) The judge shall reject the request for issuing of a warrant for pronouncement of the sentence if he determines that grounds exist for joinder of the proceedings from Article 25 of this Code, if the criminal offense in question is such that this request may not be filed or if the Prosecutor has requested a pronouncement of sentence or measure that is not allowed according to law.

(2) The Panel referred to in Article 26, Paragraph 7 of this Code shall decide the Prosecutor's appeal against the decision on rejection within 48 hours.

(3) If the judge considers that the information contained in the indictment does not provide sufficient grounds for issuing a warrant for pronouncement of the sentence, or that according to this information another sanction or measure may be expected other than the one requested by the Prosecutor, the judge shall treat the indictment as if it has been submitted for confirmation and shall act in accordance with Article 228 of this Code.

Article 336

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

(1) If the judge agrees with the request to issue the warrant for pronouncement of the sentence, the judge shall confirm the indictment and set a hearing without delay, and at the latest within 8 days of confirmation of the indictment.

(2) The presence of the parties and defence attorney shall be necessary at the hearing. In case of their absence provisions of Articles 245, 246 and 248 of this Code shall apply.

(3) At the hearing the judge shall:
   a) ensure whether the right of the accused to be represented by the defense attorney is honored;
   b) ensure whether the accused understands the indictment and the Prosecutor's request for a certain sentence or certain measures to be pronounced;
   c) invite the Prosecutor to present the accused with the contents of the evidence gathered by the Prosecutor, and call upon the accused to make a statement regarding the evidence presented;
   d) call upon the accused upon to enter a plea of guilty or not guilty;
   e) call upon the accused to make a statement upon the requested sentence or measures.

Article 337

Issuance of the Warrant for Pronouncement of the Sentence

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

(2) If the accused pleads guilty, and accepts the sentence or measure proposed in the indictment, the judge shall first establish the guilt of the accused and than shall issue a warrant for pronouncing the sentence in accordance with the indictment.

Article 338

Contents of the Verdict and Right to Appeal

(1) The verdict by which the warrant for pronouncement of the sentence is issued shall contain the data referred to in Article 285 of this Code.

(2) The opinion of the verdict referred to in Paragraph 1 of this Article shall only state the reasons that justify the pronouncement of the verdict by which the warrant for pronouncing the sentence is issued.

(3) An appeal is allowed against the verdict referred to in Paragraph 1 of this Article and the appeal may be filed within eight (8) days from the day of the delivery of the verdict.

Article 339

Delivery of the Verdict Issuing a Warrant for Pronouncement of the Sentence

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

CHAPTER XXVI

JUVENILE PROCEDURE

Section 1 – GENERAL PROVISIONS

Article 340

Application of Other Provisions of This Code to Juvenile Procedure

(1) The provisions of this Chapter shall apply in proceedings conducted against persons who were minors at the time when they committed a criminal offense and who had not reached the age of twenty-one (21) at the time proceedings were instituted or when those persons were tried. The other provisions of this Code shall apply to the extent that they do not conflict with the provisions of this Chapter.
(2) The provisions of Articles 342 through 344, Article 347 through 350, Article 355, Article 357, Article 359 and Article 366 of this Code shall apply in proceedings conducted against a young adult if, before the main trial commences, it is found that a developmental measure should properly be pronounced on that person in accordance with the Criminal Code of Bosnia and Herzegovina, and by that date the person has not reached the age of twenty-one (21).

Article 341

Application of the Provisions to Children

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

Article 342

Circumspect Treatment

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

Article 343

Mandatory Defense

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

Article 344

Relieved of the Duty to Testify

Parents of the minor, his foster parents, adoptive parents, social worker, religious official and defense attorney are relieved of the duty to testify concerning the circumstances necessary for evaluation of the mental development of a minor and for gaining familiarity with his personality and the conditions in which he lived (Article 355).

Article 345

Joined and Separate Proceedings

(1) When a minor has participated in committing a criminal offense with an adult, a separate proceeding shall be conducted against him, and its conduct shall conform to the provisions of this Chapter.
(2) The proceeding against a minor may be joined with the proceeding against an adult and conducted under the general provisions of this Code only if the joined proceeding is necessary to a full clarification of the case. The decision on this matter shall be made by the judge for juveniles upon the justified motion of the Prosecutor. An appeal is not allowed against this decision.
(3) When a joint proceeding is conducted against minor and adult perpetrators, the provisions of Article 342 through 344, Article 347 through 350, Articles 355 and 357, Article 359 and Article 365 of this Code shall always be applied with respect to the minor when matters pertaining to the minor are being clarified in the main trial, and

Articles 366 and 372 of this Code as well as the other provisions of this Chapter, shall be applied to the extent that it does not conflict the conduct of a joint proceeding.

Article 346

Joint Proceeding

When a person has committed some criminal offense as a minor and some other criminal offense as an adult, a joint proceeding shall be conducted pursuant to Article 25 of this Code before the Panel that tries adults.

Article 347

The Role of the Juvenile Welfare Authority

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

Article 348

Summon and Delivery of Process

(1) A minor shall be summoned through his parents or legal representatives.
(2) Decisions and other process shall be served on a minor in accordance with the provisions of Article 171 of this Code, provided that process shall be not served on the minor through a bulletin board of the Court, and the provision of the Article 167, Paragraph 2 shall not be applied.

Article 349

Announcement of the Course of the Criminal Proceeding

(1) Neither the course of a criminal proceeding against a minor, nor the decision rendered in that proceeding may be made public.
(2) A legally binding decision of the Court may be published, but without stating the personal data of the minor that might serve as the basis for identifying the minor.

Article 350

Duty of Urgent Action

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

Article 351

Composition of the Court

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

Section 2 – INSTITUTING THE PROCEEDING

Article 352

Application of the Principle of Opportunity

(1) For criminal offenses carrying punishment of imprisonment up to three (3) years or a fine, the Prosecutor may decide not to file the indictment even though there is evidence that the minor committed the criminal offense if the Prosecutor feels that it would not be purposeful to conduct a criminal proceeding against the minor in view of the nature of the criminal offense and the circumstances under which it was committed, the minor's previous life and his personal characteristics. In order to determine these circumstances, the Prosecutor may seek information from parents or guardians of the minor and from other persons and institutions and when necessary, he may summon those persons and the minor to the Prosecutor's Office to obtain information in person. He may seek the opinion of the juvenile welfare authority concerning the purposefulness of conduct a criminal proceedings against the minor.
(2) If there is a need to study the personal characteristics of the minor in order to make the decision referred to in Paragraph 1 of this Article, the Prosecutor may in agreement with the juvenile welfare authority send the minor to a juvenile home or institution for testing or educational institution, but not to exceed 30 days.
(3) When a punishment or developmental measure is being executed, the Prosecutor may decide not to bring a charge for another criminal offense of the minor if in view of the severity of that criminal offense and the punishment or developmental measure being executed, there would be no point to conduct a criminal proceeding and pronounce punishment for that criminal offense.
(4) If in the cases referred to in Paragraphs 1 and 3 of this Article the Prosecutor finds that it is not purposeful to conduct a criminal proceeding against a minor, he shall so inform the juvenile welfare authority and the injured party, stating the grounds of his decision.

Article 353

Developmental Measures

The Prosecutor is obligated to consider whether the pronouncement of the developmental measures are possible and justified, in accordance with the Criminal Code of Bosnia and Herzegovina, before he decides whether to file the motion for instituting the criminal proceedings towards the minor for the criminal offense referred to in Article 352, Paragraph 1 of this Code.

Section 3 – PREPARATORY PROCEEDING

Article 354

Developmental Measures and Motion for Instituting the Preparatory Proceeding

(1) The Prosecutor shall file the motion for instituting the preparatory proceeding with the judge for juveniles. The judge for juveniles is obligated to consider whether pronouncement of the developmental measures is possible and justified, in accordance with the Criminal Code of Bosnia and Herzegovina, before he decides whether he should admit the request referred to in Article 353 of this Code. If the judge decides to pronounce a developmental measure, the judge for juveniles may decide not to institute the proceeding towards the minor. An appeal is not allowed against the decision of the judge for juveniles.

(2) Notwithstanding cases referred to in Paragraph 1 of this Article, if the judge for juveniles does not agree with the request for instituting the preparatory proceeding, the judge for juveniles shall request the Panel for juveniles to decide the matter.

(3) The judge for juveniles may order the police to search a dwelling and persons or to seize an object in accordance with this Code.

Article 355

Obtaining Data on Minor's Personality

(1) In the preparatory proceeding against a minor, along with the facts pertaining to the criminal offense, a specific determination shall be made of the minor's age and of the circumstances necessary to evaluate his mental development, and a study shall be made of the environment in which and conditions under which the minor lived and of other circumstances that have a bearing on his personality.

(2) In order to determine the circumstances from Paragraph 1 of this Article, the judge for juveniles shall obtain reports and hear the persons who can provide the necessary information, except for persons referred to in Article 344 of this Code.

(3) The judge for juveniles shall obtain information on the minor's personality. The judge for juveniles may request that information be gathered by a professional, including social worker, specialist in defective delinquency, psychologist, but he may commission the juvenile welfare authority to obtain such information.

(4) When it is necessary for the minor to be examined by experts in order to establish his state of health, mental development, mental characteristic or predisposition, physicians, psychologists or pedagogues shall be appointed for that examination. These examinations of the minor may be done in a medical or other institution.

Article 356

Persons Present at the Preparatory Proceeding

(1) The judge for juveniles himself shall decide the manner of conduct of certain actions in accordance with the provisions of this Code by using measures to a degree that ensures the right of the minor to defense, the right of the injured party and obtaining evidence necessary for the decision.

(2) The Prosecutor and the defense attorney may be present during the actions in the preparatory proceeding. When necessary, the examination of the minor shall be carried out by the pedagogue or another professional. The judge for juveniles may approve that the representative of the juvenile welfare authority, parent or the guardian of the minor be present in the preparatory proceeding. If the aforesaid persons are present during these actions, they may file motions and ask questions to person who is being examined.

Article 357

Placement of the Minor

(1) The judge for juveniles may order that the minor during the preparatory proceeding be placed in a juvenile home or similar institution, be placed under the surveillance of the juvenile welfare authority or put in the care of another family if this is necessary to separate the minor from the environment in which he has been living or to provide the minor with aid, protection or a place to live.

(2) The cost of the minor's accommodations shall be paid in advance from the budget and shall be included in the cost of the criminal proceedings.

Article 358

Ordering the Custody

(1) Exceptionally, the judge for juveniles may order that the minor be placed in custody when the reasons for the custody referred to in Article 132, Paragraph 2, Item a) through c) of this Code exist.

(2) Based on the decision on custody issued by the judge for juveniles, the custody may not exceed 30 days. The Panel for juveniles is obligated to review the necessity of the custody every fifteen (15) days.

(3) The Panel for juveniles may extend the custody for two (2) more months if there are legal reasons for the extension.
(4) After completion of the preparatory proceeding, the custody may last for six (6) more months at a maximum. The review of justification of the custody shall be carried out by the Panel for Juveniles upon the expiration of one month period following the date of issuance of the most recent decision on custody. The appeal against this decision shall not stay its execution.

Article 359

Treatment of the Minor when in Custody

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

Article 360

Reasoned Proposal

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

Article 361

Dismissal of the Procedure

(1) If during the preparatory proceeding, the Prosecutor finds that there are no grounds to conduct a proceeding against the minor or that the reasons referred to in Article 352, Paragraph 3 of this Code exist, the Prosecutor shall file a motion to the judge for juveniles to dismiss the proceeding. The Prosecutor shall inform the juvenile welfare authority about the motion to dismiss the proceeding.
(2) If the judge for juveniles does not agree with the motion of the Prosecutor, the judge for juveniles shall request the Panel for juveniles to decide the matter.
(3) The Panel may dismiss the case involving a juvenile and decide that the proceedings be continued before a judge for juveniles.

Article 362

Control of the Proceeding

The judge for juveniles shall inform the President of the Court every 15 days about which juvenile cases are not closed and shall inform him about the reasons why certain cases are still ongoing. The President of the Court shall, if necessary, undertake measures to speed up the proceeding.

Section 4 – FIRST INSTANCE PROCEEDING

Article 363

Scheduling a Hearing or the Main Trial

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

Article 364

Decision Making at the Main Trial

(1) When rendering a decision based on the main trial, the provisions of this Code related to the direction of the main trial, adjournment and recess of the main trial, the record and course of the main trial, shall be appropriately applied, but the judge for juveniles may depart from these rules if he considers that their application would not be purposeful in the specific case.
(2) The parents or guardian of the minor and the juvenile welfare authority shall be summoned for the main trial beside the persons whose presence is mandatory. Failure of the parents, guardian or representative of the juvenile welfare authority to appear at the main trial shall not preclude the Court from holding the main trial.
(3) Apart from the minor, the Prosecutor who filed a motion referred to in Article 360 of this Code and the defense attorney must be present at the main trial.

(4) The provisions of this Code concerning amendment to the indictment shall also apply in a proceeding against a minor, except that the judge for juveniles is authorized to render a decision without a recommendation of the Prosecutor on the basis of an alteration in the state of facts in the main trial.
(5) The Prosecutor, juvenile, defence attorney, parent or guardian of the juvenile shall be invited to the hearing, and a representative of the social welfare centre shall be notified of the hearing and may be present at the hearing. The Prosecutor and defence attorney of the juvenile are obliged to be present at the hearing. If the Prosecutor or the defence attorney fails to appear at the hearing without a justification, the judge for juveniles shall notify the Prosecutor's Office and the Bar Association thereof.

Article 365

Exclusion of the Public

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

Article 366

Temporary Placement of the Minor

During the proceeding before the Court, the juvenile judge may render a decision concerning temporary placement of the minor in an institution (Article 357), and he may also revoke a previous order to that effect.

Article 367

Scheduling the Main Trial and Rendering the Decision

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

Article 368

The Decisions of the Judge for Juveniles

(1) The judge for juveniles is not bound by the recommendation of the Prosecutor in rendering its decision as to whether it shall pronounce a punishment or a developmental measure against the minor, but if the Prosecutor withdrew his recommendation, the judge for juveniles may not pronounce the punishment against the minor but only a developmental measure.
(2) The judge for juveniles shall issue a decision dismissing proceedings in cases when on the basis of Article 283, Item d) through f) of this Code the Court issues a verdict refusing the charge or acquitting the accused of the charge (Article 284) and when the judge for juveniles finds that it is not purposeful to pronounce either a punishment or a developmental measure against the minor.
(3) The judge for juveniles shall also issue a decision when he pronounces a developmental measure on the minor. The pronouncement of that decision shall state only which measure is being pronounced, but the minor shall not be declared guilty of the criminal offense with which the minor has been charged. The opinion of the decision shall contain a description of the criminal offense and the circumstances that justify pronouncement of the developmental measure.
(4) A verdict pronouncing punishment of the juvenile imprisonment against the minor shall be rendered in the form provided by Article 285 of this Code.

Article 369

Costs of the Proceeding and Claim under Property Law

(1) The judge for juveniles may sentence the minor to pay the costs of criminal proceedings and to make restitution of claims under property laws only if the judge for juveniles has pronounced a punishment of the juvenile imprisonment against the minor.
(2) If a developmental measure has been pronounced against the minor, the costs of proceedings shall be paid from the budget, and the injured party shall be referred to a civil action to satisfy his claim under property law.

Section 5 – LEGAL REMEDIES

Article 370

An Appeal against the Verdict and Against the Decision

(1) All persons who have the right to appeal against the verdict (Article 293) may file an appeal against a verdict in which a penalty of the juvenile imprisonment was pronounced against a minor, against a decision in which a developmental measure was pronounced on a minor, and against a decision dismissing proceedings (Article 368, Paragraph 2). This appeal may be filed within eight (8) days from the date of receipt of the verdict or decision.
(2) The defense attorney, the Prosecutor, the spouse or extramarital partner, blood relative in the direct line, adoptive parent, guardian, brother, sister and foster parent may file an appeal on a minor's behalf without the minor's consent.
(3) An appeal against a decision pronouncing a developmental measure, which is being served in an institution, shall stay the execution of the decision unless the judge for juveniles decides otherwise in agreement with the parents of the minor or appellant, and after questioning the minor.
(4) A minor and his defense attorney shall always be summoned for the session of the Panel for juveniles (Article 304). Failure of the minor and his defense attorney to appear despite being duly summoned shall not preclude the second instance Court from holding its session.

Article 371

Decisions of the Panel for Juveniles and Ban *Reformatio in Peius*

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

Article 372

Reopening the Criminal Proceeding

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

Section 6 – SUPERVISION OF THE COURT OVER THE EXECUTION OF THE MEASURES

Article 373

A Report on Minor's Behavior

(1) The administration of an institution in which a developmental measure is executed against a minor must deliver to the Court a report on the minor's behavior every two (2) months. The judge for juveniles may himself visit the minors who have been placed in that institution.
(2) The judge for juveniles may obtain information through the juvenile welfare authority concerning the enforcement of other developmental measures, and he may order a particular professional, including social worker, specialist in defective delinquency to do so.

Section 7 – SUSPENSION OF EXECUTION AND AMENDMENT OF THE DECISION ON DEVELOPMENTAL MEASURES

Article 374

Amending the Decision and Suspending the Execution

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

CHAPTER XXVII

PROCEEDING AGAINST A LEGAL PERSONS

Article 375

Joint Proceeding

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

Article 376

Purposefulness of Instituting the Proceeding

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

Article 377

Representative of the Legal Person in the Criminal Proceeding

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

Article 378

Appointing the Representative

(1) A representative of the legal person in the criminal proceeding is a person who is authorized to represent the legal person under the law, under an official act of the state body, under a statute, an official act on establishment or another act of the legal person.
(2) A representative may authorize someone else to represent the legal person. Authorization shall be given both in writing and orally in the court record.
(3) If the legal person ceased to exist before the legally binding completion of the criminal proceeding, the Court shall appoint a representative for the legal person.

Article 379

Disqualification of the Representative

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

Article 380

Delivery of the Process

Process addressed to the business enterprise shall be delivered to the legal person and to the representative.

Article 381

Costs of the Representative

Costs of the representative of the legal person in the criminal proceedings fall under the costs of the criminal proceeding. Costs of the representative appointed in accordance with Article 378 and Article 379 of this Code shall be paid in advance from the finances of the body that carries out a criminal proceeding only when the legal person has no assets.

Article 382

Defense Attorney of the Legal Person in the Criminal Proceeding

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

Article 383

Contents of the Indictment

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

Article 384

Trial and the Closing Argument

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

Article 385

Verdict against the Legal Person

Beside the contents stipulated in the Article 285 of this Code, a written verdict shall contain the following:

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

Article 386

Security Measure

(1) In order to ensure enforcement of a punishment, forfeiture of property or forfeiture of property gain, the Court may order temporary security against a legal person, at the proposal of the Prosecutor. In this case, the provisions of Article 202 of this Code shall apply.
(2) If there is a legitimate fear that an offense will be repeated within an indicted legal person and that the legal person will be responsible and if there is a threat that an offense will be committed, the Court may in the same procedure, except for the measures from Paragraph 1 of this Article, impose a time restriction on the legal person to carry out one or more activities.
(3) When the criminal procedure is instituted against the legal person, the Court may, at the proposal of the Prosecutor, or *ex officio*, forbid status-related changes, the consequence of which would be deletion of the legal person from the Court registry. The decision on this ban is registered in the Court registry.

Article 387

Application of Other Provisions of This Code

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

CHAPTER XXVIII

PROCEDURE FOR APPLICATION OF SECURITY MEASURES, FORFEITURE OF PROPERTY GAIN AND REVOCATION OF SUSPENDED SENTENCE

Article 388

Adjournment of the Procedure in Case of a Mental Illness

(1) If the accused becomes affected by such a mental illness after the commission of a criminal offense that he or she is unable to take part in the procedure, the Court shall, upon psychiatric forensic evaluation, adjourn the procedure and send the accused to the body responsible for issues of social care.
(2) When the health condition of the accused has improved to the extent to which he or she is capable to take part in the procedure, the procedure shall continue.
(3) In case criminal prosecution becomes time barred during the adjournment, the Panel referred to in Article 24 Paragraph (7) of this Code shall issue a Decision on adjournment of proceedings.

Article 389

Procedure in Case of Mental Incompetence

(1) If the suspect has committed a criminal offence in the state of mental incompetence and if legally prescribed conditions for ordering mandatory placement in a health institution for seriously mentally incapacitated persons exist, the Prosecutor shall propose in the indictment that the Court establishes that the suspect committed an unlawful act in a state of mental incompetence, and that he shall be issued a temporary order on mandatory placement in a health institution, with the health institution being informed about it.
(2) Upon the reasoned proposal of the prosecutor, the detention of the suspect or accused under Paragraph 1 above may be ordered for reasons under Article 132 of this Law. When detention of the suspect is ordered or extended, he shall be confined in a health institution for a period that may last as long as the reasons under Article 132 exist, but not

longer than time lines under Articles 135 and 137, paragraphs 2 and 3 of this Code, or until the temporary order on mandatory placement in a health institution has become final and binding.

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

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

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

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

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

Article 390

Procedure in Case of Obligatory Medical Treatment

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

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

Article 391

Forfeiture of Items

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

(2) The ruling referred to in Paragraph 1 of this Article shall be issued by the judge or Panel at the moment when the procedure is completed or when it is adjourned.

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

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

(5) The owner of the items may appeal the ruling from Paragraphs 1, 2 and 3 of this Article on the ground of the lack of a legal basis for forfeiture of items.

Article 392

Forfeiture of Property Gain Obtained by Commission of Criminal Offense

(1) The property gain obtained by commission of a criminal offense shall be established in a criminal procedure *ex officio*.

(2) The Prosecutor shall be obligated to collect evidence during the procedure and examine the circumstances that are important for the establishment of the property gain obtained by commission of a criminal offense.

(3) If the injured party submitted a claim under property law for repossession of items obtained through a criminal offense, or the amount that is equivalent to the value of such items, the property gain shall be established only in the part that is not included in the claim under property law.

Article 393

Procedure for Forfeiture of Property Gain Obtained by Commission of Criminal Offense

(1) When the forfeiture of property gain obtained through a criminal offense is a possibility, the person to whom the property gain is transferred and the representative of the legal person shall be summoned to the main trail for hearing. They shall be warned in the subpoena that the procedure shall be conducted without their presence.

(2) A representative of the legal person shall be heard at the main trial after the accused. The same procedure shall apply to the person to whom the property gain was transferred if that person is not summoned as a witness.

(3) The person to whom the property gain is transferred as well as the representative of legal person shall be authorised

to propose evidence in relation to the establishment of property gain and to question the accused, witnesses and expert witnesses upon approval by the judge or the presiding judge.

(4) The exclusion of the public at the main trial shall not refer to the person to whom the property gain is transferred and the representative of the legal person.

(5) If during the main trial the Court establishes that the forfeiture of property gain is a possibility, the Court shall adjourn the main trial and shall summon the person to whom the property gain was transferred, and a representative of the legal person.

Article 394

Establishment of Property Gain Obtained by Commission of Criminal Offense

The Court shall establish the value of property gain by a free estimate if the establishment would be linked to disproportional difficulties or a significant delay of the procedure.

Article 395

Temporary Security Measures

When the forfeiture of property gain obtained by commission of criminal offense is a possibility, the Court shall *ex officio* and under the provisions applicable to the judicial enforcement procedure define temporary security measures. In that case, the provisions of Article 202 of this Code shall apply.

Article 396

The Contents of the Decision That Pronounces a Measure of Forfeiture of Property Gain

(1) The forfeiture of property gain obtained by commission of criminal offense may be pronounced by Court in a verdict by which the accused is declared guilty, in a ruling on application of a correctional measure and in a proceeding referrer to in Article 389 of this Code.

(2) In the pronouncement of the verdict or decision, the Court shall indicate what item or amount of money is to be forfeited.

(3) A certified copy of the verdict or the ruling shall also be delivered to the person to whom the property gain is transferred and to the representative of the legal person, if the Court pronounced the forfeiture of property gain from that person.

Article 397

Request for a Renewed Procedure With Respect to the Measure of Forfeiture of Property Gain

The person referred to in Article 393 of this Code may file a request for a renewed criminal proceeding related to the decision on forfeiture of property gain obtained by commission of criminal offense.

Article 398

The Appropriate Application of the Provisions Regarding an Appeal

The provisions of Articles 294, Paragraphs 2 and 3 and Articles 302 and 317 of this Code shall be applied appropriately in reference to the appeal against the decision on forfeiture of property gain.

Article 399

The Appropriate Application of Other Provisions of the Law

If the provisions of this Chapter do not stipulate otherwise, the procedure for application of security measures or forfeiture of property gain obtained by commission of criminal offense, other relevant provisions of this Code shall be applied appropriately.

Article 400

Procedure to Revoke Suspended Sentence

(1) When a suspended conviction provides that a sentence will be executed if a convicted persons fails to return property gain obtained by commission of criminal offense, to compensate a damage or to meet other obligations, and the convicted person has failed to do so, the Court shall conduct proceedings to revoke the suspended sentence at the proposal of the Prosecutor or *ex officio*.

(2) The Court shall be obligated to schedule a hearing in order to establish facts, to which it shall summon the Prosecutor, convicted person and injured party.

(3) If the Court establishes that the convicted person failed to meet obligations ordered in the verdict, it shall issue a verdict revoking the suspended sentence and order execution of the sentence, or extend the deadline for compliance with the obligation or replace the obligation with another corresponding obligation or relieve the convicted person of complying with the pronounced obligation. If the Court finds that there are no grounds to take any of the said decisions, it shall issue a procedural decision revoking the suspended sentence.

CHAPTER XXIX

PROCEDURE FOR RENDERING DECISION DELETING A CONVICTION OR TERMINATING SECURITY MEASURES AND LEGAL CONSEQUENCES OF A CONVICTION

Article 401

Procedural Decision Deleting a Conviction

(1) When the law provides that convictions shall be deleted after a specific period of time and under the condition that the convicted person has not committed any criminal offense during such period, the authority in charge of keeping criminal records shall issue *ex officio* a procedural decision deleting the conviction.
(2) It shall be necessary to conduct certain inquiries before the issuance of such procedural decision deleting the conviction, in particular to gather information as to any criminal proceedings against the convicted person for a new criminal offense committed prior to the expiry of deadline foreseen for deleting the conviction.

Article 402

Motion of the Convicted Person for Deleting a Conviction

(1) If the responsible authority has failed to issue a procedural decision deleting a conviction, the convicted person may request that it be established as to whether the deleting of the conviction is due under the law.
(2) If the responsible authority fails to meet the request of the convicted person within 30 days of the day of its receipt, the convicted person may request the Court to issue a procedural decision deleting the conviction.

Article 403

Deleting of a Suspended Sentence by the Court

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

Article 404

Procedure to Delete a Conviction on the Basis of a Court Decision

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

Article 405

Certificate on Criminal Records

A certificate on criminal record that is issued to citizens on the basis of criminal records must not refer to a conviction that was deleted or legal consequences that were deleted.

Article 406

Motion and Procedure to Terminate a Security Measure

(1) A motion for termination of the security measures prescribed in the Criminal Code of Bosnia and Herzegovina and other measures prescribed by the law shall be submitted to the Court.
(2) A judge assigned for such purpose shall conduct a preliminary inquiry as to whether the required period of time provided for by the law has expired, he shall than schedule and conduct hearings in order to establish facts to which the applicant referred. The judge shall summon the Prosecutor and applicant.
(3) The judge under Paragraph 2 of this Article may also request from the police authority or facility where the convicted person served his sentence a report as to the conduct of the convicted person.
(4) If the motion has been rejected, no new motion may be submitted before the expiry of one (1) year of the day when the procedural decision rejecting the previous motion became legally binding.

The heading "Chapter XXX - deleted

Articles 407 – 410 deleted

Article *407*

Centralization of Data

The Court shall be obligated to communicate, without delay, to the competent Ministry of Bosnia and Herzegovina information on any criminal offense and perpetrator as well as any valid verdict concerning criminal offenses of production and circulation of false money, unauthorized production, processing and trade of drugs and poison, human trafficking, dissemination of pornographic files as well as concerning other criminal offenses for which international agreements foresee centralization of data. As regards criminal offenses of money laundering or cases involves a criminal offense pertaining to money laundering, information must also be delivered without delay to the Bosnia and Herzegovina authority responsible for prevention of money laundering.

Article 412

deleted

Article 413

deleted

The heading "Chapter XXXI - deleted

Articles 414 – 431 - deleted

CHAPTER *XXX*

PROCEDURE FOR COMPENSATION OF DAMAGES, REHABILITATION AND OTHER RIGHTS OF PERSONS SUBJECT TO UNJUST CONVICTION AND GROUNDLESS APPREHENSION

Article 432

Compensation of Damages Caused by Unjust Conviction

(1) A person against whom an effective criminal sanction was pronounced or who was found guilty and freed from sanction, and later, based on extraordinary remedy, new proceedings were effectively suspended or effective verdict was pronounced acquitting the person of charges, or the charges were rejected, shall be entitled to compensation of damages on grounds of unjust convicted, except in the following cases:
   a) if the suspension of proceedings or the verdict rejecting the charges resulted from the Prosecutor dismissing the prosecution in the new proceedings, and the dismissal took place based on an agreement with the suspect or the accused;
   b) if in the new proceedings a verdict was pronounced rejecting the charges due to Court incompetence, and the authorized Prosecutor instituted prosecution before a competent Court.

(2) A convicted person shall not be entitled to compensation of damages if he intentionally brought about his own conviction by false admission or in another way, unless he was forced to that.

(3) In case of conviction for merger of crimes, the right to compensation of damages may also refer to individual criminal offenses when the conditions for recognition of damages are met.

Article 433

Statute of Limitation of Claims for Compensation of Damages

(1) The statute of limitation of claims for compensation of damages shall be applicable three (3) years from the day of effectiveness of the verdict acquitting the accused or dismissing the charges, or the effectiveness of the decision of the Prosecutor or the Court suspending the proceedings, and if, in case of a request for extraordinary remedy, an appeal was filed to the Panel of the Appellate Division, from the day of receipt of that Panel's decision.

(2) Before submitting a claim for compensation of damages to the Court, the damaged person shall be obliged to file his claim with the competent Ministry of Bosnia and Herzegovina, for the purpose of agreeing on existence of damages and the kind and amount of compensation.

(3) In the case referred to in Article 434, Paragraph 1 of this Code, a claim may be decided upon only if the authorized Prosecutor did not institute prosecution before a competent Court within three (3) months from the day of receipt of the legally binding verdict.

Article 434

Filing Claims for Compensation of Damages to Competent Court

(1) If the claim for compensation of damages is not adopted or the competent Ministry of Bosnia and Herzegovina fails to make its decision within three (3) months from the day the claim is filed, the damaged person may file the claim for compensation of damages with the competent Court.

(2) If an agreement is reached on a part of the compensation claim only, the damaged person may file a petition with regard to the rest of the claim.

(3) Claims for the compensation of damages shall be filed against Bosnia and Herzegovina.

Article 435

Right of Heirs to Compensation of Damages

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

Article 436

Persons Entitled to Compensation of Damages

(1) The following persons shall be entitled to compensation of damages:
   a) a person who was in detention, but criminal proceedings were not initiated or proceedings were suspended or an effective verdict was pronounced acquitting the person of charges or charges were rejected;
   b) a person who served a sentence of imprisonment, and was pronounced a shorter imprisonment sentence in new criminal proceedings than the sentence he had served, or was pronounced a criminal sanction other than imprisonment or he was pronounced guilty and freed from sanction;
   c) a person who was subject to groundless apprehension or retained in detention or a correctional institution due to a mistake;
   d) a person who was in detention longer than the sentence to which he was convicted.
(2) A person who was imprisoned without a legal ground shall be entitled to compensation of damages if no pre-trial detention was ordered against him or the time for which he was imprisoned was not included in the sentence pronounced for a criminal offense or minor offense.
(3) A person who caused imprisonment by his own unlawful acts shall not be entitled to compensation of damages. In cases referred to in Item a) of Paragraph 1 of this Article, right to compensation of damages shall not apply in case of circumstances referred to in Article 432 Paragraph 1, or if proceedings were suspended pursuant to Article 205 of this Code.
(4) In compensation proceedings, in cases referred to in Paragraphs 1 and 2 of this Article, the provisions of this Chapter shall apply accordingly.

Article 437

Compensation of Damages Inflicted by Media

If a case involving unjust conviction or groundless apprehension of a person was covered by media, inflicting damage upon the reputation of that person, the Court shall, at the person's request, publish in newspapers or other media a statement on its decision confirming that the previous conviction was unjust or that the apprehension was groundless. If the case was not covered by media, such a statement shall, at the request of that person, be provided to the authority, or another legal person in which the person works, and to a political party or civil association, if that is required for the person's rehabilitation.

Article 438

Persons Entitled to Filing Damage Claims

(1) After a convicted person dies, his spouse or extramarital partner, children, parents, brothers and sisters shall be entitled to file such a claim.
(2) The claim referred to in Paragraph 1 of this Article may be filed even if no claim for the compensation of damages was filed.
(3) Notwithstanding the conditions foreseen in Article 432 of this Code, the claim referred to in Paragraph 1 of this Article may be filed in case the legal qualification of the act changed by use of an extraordinary remedy, in case the reputation of the convicted person was more severely damaged by the legal qualification in the earlier verdict.
(4) The claim referred to in Paragraphs 1 to 3 of this Article shall be filed to the Court within six (6) months. The claim shall be decided upon by the Panel (Article 24 Paragraph 7). In deciding on the claim, provisions of Article 432, Paragraphs 2 and 3, and Article 436 Paragraph 3 of this Code shall apply accordingly.

Article 439

Rehabilitation

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

Article 440

Ban on Use of Data

A person who gains access in any way to data pertaining to unjust conviction or groundless apprehension may not use such data in a way that would be damaging to the rehabilitation of a person against whom criminal proceedings were conducted.

Article 441

Right to Compensation of Damages With Respect to Employment

(1) Years of service or years of insurance coverage of a person whose employment was terminated or who lost the status of social insurance holder due to unjust conviction or groundless apprehension shall be recognized for the period of time in which the years of service or years of insurance coverage were not recognized due to unjust conviction or groundless apprehension. The period of time of unemployment effected due to unjust conviction or groundless apprehension, which was not the fault of the person in question, shall also be counted as years of service or years of insurance coverage.
(2) When deciding on each case pertaining to the right that is affected by the years of service or years of insurance coverage, the responsible body or legal person shall also take into account the years of service or years of insurance coverage recognized in the provisions of Paragraph 1 of this Article.
(3) If the responsible body or legal person referred to in Paragraph 2 of this Article fails to take into account the years of service or years of insurance coverage recognized in the provision of Paragraph 1 of this Article, the damaged party may request that the Court determine whether the recognition of this period of time was made in accordance with the law. The lawsuit shall be filed against the body or legal person that is disputing the recognized years of service or insurance coverage, and against Bosnia and Herzegovina.
(4) At the request of the body or legal person at which the right under Paragraph 2 of this Article is exercised, a prescribed amount for the years of service recognized under the provision of Paragraph 1 of this Article shall be paid from the budget of Bosnia and Herzegovina.
(5) The years of insurance coverage recognized by the provision in Paragraph 1 of this Article shall be added in full to the years of retirement.

CHAPTER *XXXI*

PROCEDURE FOR ISSUANCE OF WARRANTS AND NOTIFICATIONS

Article 442

Searching for Address

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

Article 443

Requirements for Issuance of Warrants

(1) Issuance of a warrant may be ordered if the suspect or the accused against whom criminal proceedings have been instigated due to a criminal offense for which it is possible to pronounce a prison sentence of three (3) years or more is on the run, and an order for his apprehension or a decision specifying his detention has been issued.
(2) Issuance of a warrant shall be ordered by the Court.
(3) Issuance of a warrant shall also be ordered in case a convicted person escapes from the institution in which he is serving a sentence regardless of its length, or in case of his escape from an institution in which he is serving an institutional measure related to apprehension. In such a case, the warden of the institution shall issue the order.
(4) Order of the Court or warden for issuance of a warrant shall be submitted to the police authorities for the purpose of its execution.

Article 444

Issuance of Notification

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

Article 445

Withdrawal of Warrant or Notification

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

Article 446

Who is issuing a Warrant or Notification

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

CHAPTER *XXXII*

TRANSITIONAL AND FINAL PROVISIONS

Article 447

Competent Ministry

With respect to this Code, the competent ministry of Bosnia and Herzegovina shall be the Ministry entrusted with affairs in the area of justice.

Article 448

Judicial Police

If the judicial police is not established prior to the entry into force of this Code, the powers of the judicial police prescribed by this Code shall be exercised by the police authorities in Bosnia and Herzegovina or entity judicial police forces.

Article 449

Deciding on Cases Pending before Other Courts and Prosecutor's Offices

(1) Cases falling under the competence of the Court that are pending before other courts prior to the entry into force of this Code shall be finalized by these courts if the indictment is confirmed or in legal effect in these cases.
(2) Cases falling within the competence of the Court which are pending before other courts or prosecutor's offices and in which the indictment is not legally effective or confirmed, shall be finalized by the courts which have territorial jurisdiction unless the Court, ex officio or upon the reasoned proposal of the parties or defense attorney, decide to take such a case ***while taking into account the gravity of the criminal offence, the capacity of the perpetrator and other circumstances of importance in assessing the complexity of the case***.
(3) In cases referred to in Paragraph 2 of this Article, after decision of the Court to take over the case, the criminal proceedings shall be continued in accordance with this Code.

Article 450

Adoption of Bylaws

Bylaws envisaged by this Code shall be adopted within 90 days from the date of entry into force of this Code.

Article 451[2]

Entry into Force of the Law

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

[2] Law on Amendments to the Criminal Procedure Code published in the Official Gazette of BiH No. 58/08 includes the following Articles:

Article 125

In cases where the indictment has been confirmed prior to the entry into force of this Law, the proceedings shall be continued pursuant to the provisions of the Criminal Procedure Code of Bosnia and Herzegovina (Official Gazette of BiH No. 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07 and 15/08), unless the provisions of this Law are more favorable for the suspect or the accused.

Article 126

The Constitutional-Legal Committee of the House of Representatives of the Parliamentary Assembly of BiH and the Constitutional-Legal Committee of the House of Peoples of the Parliamentary Assembly of BiH is authorized to formulate the consolidated text of the Criminal Procedure Code of BiH within 60 days as of the day of the publication of this Law in the Official Gazette of BiH.

Article 127

The competent bodies of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District of Bosnia and Herzegovina shall harmonize their respective criminal procedure codes with this Law within 90 days as of the day of entry into force of this Law.