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Ministry of Justice

**LAW  
ON AMENDMENTS AND ADDITIONS TO  
THE CRIMINAL PROCEDURE CODE**

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**LAW**  
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**THE CRIMINAL PROCEDURE CODE**

Article 1

In the Criminal Procedure Code ("Official Gazette of FRY, no. 70/01 and 68/02 and Official Gazette of RS, no. 58/04, 85/05, 115/05, 49/07 and 20/09 state law), in Article 3 (1) the words "shall be considered" shall be replaced by "are considered". In paragraph 2 after the words "the injured party" and "the principle of judiciary independence," the words "independence, authority and impartiality of the court." Shall be inserted.

Article 2

Article 4 is hereby amended as follows:

"(1) Any defendant or suspect is entitled:

- 1) to be informed about the offence he is charged with, as soon as possible and no later than at the first interrogation, in details and in a language he understands, about the nature and cause of accusation and evidence collected against him;
- 2) to defend himself alone or to obtain professional assistance of a counsel at his own choice from lawyers' list;
- 3) to have his defense counsel present at his interrogation;
- 4) to be brought before the court, as soon as possible, trialed impartially, fairly and within a reasonable timeline;
- 5) to be provided enough time and facilities to prepare his defense;
- 6) to declare on all the facts and evidence he is charged with and present facts and evidence in his favor, either alone or assisted by a counsel, to question prosecution witnesses and request that defense witnesses are questioned under the same conditions as the prosecution witnesses, in his presence;
- 7) to get a translator and interpreter if he does not understand and speak the language used in the proceedings.

(2) The court or other state authority is obliged:

- 1) To ensure the realization of the defendant's or suspect's rights, as provided for in paragraph 1 of the present Article;
- 2) Prior to the first interrogation, to warn the defendant or suspect, that any statement he makes may be used as evidence against him and instruct him about the right to obtain a defense counsel and the right to have the defense counsel attend his interrogation.
- 3) If the defendant or the suspect does not obtain a defense counsel, the court shall appoint him a defense counsel as provided for by the present Code.
- 4) The defendant who cannot afford a counsel, shall be, at his request, assigned a defense counsel at the expense of the Court budgetary funds as provided for in the present Code.
- 5) The defendant that is available to the court can be trialed only in his presence, unless the trial in his absence is exceptionally permitted by the present Code.
- 6) The defendant who is available to the court cannot be punished if he is not allowed to be heard and to defend. "

### Article 3

Article 5 is hereby amended as follows:

"(1) A person deprived of liberty without a court decision, is immediately advised that he is not obliged to make any statement, that any statement he makes may be used as evidence against him and that he has the right to be interrogated in presence of a counsel who shall be appointed at the expense of budget funds, if he cannot afford one.

2) Any person deprived of liberty without a court decision, must, without deferral and not later than within 48 hours, be handed over to the competent Investigative Judge or otherwise be released.

(3) In addition to the rights, pertaining to the defendant and the suspect pursuant to Article 4 of the present Code, a person deprived of liberty shall have the following additional rights:

1) at his request time, location and any change of location of deprivation of liberty shall be communicated, without deferral to the family member or another close person, as well as to the diplomatic-consular representative of the state whose citizen he is, i.e. the international organization representative if the person is a refugee or an ex-patriot;

2) to have undisturbed communication with his defense counsel, diplomatic-consular representative, the representative of international organizations and the Ombudsman;

3) to be checked up, at his own request, without deferral, by freely selected physician, and if that is not possible, by a physician designated by the authority of detention, or the Investigative Judge;

4) to initiate proceedings before the court or to appeal to the court in charge to urgently decide on the legality of detention.

(4) any violence against persons deprived of liberty or persons with limited freedom is prohibited and punishable. Such a person must be treated humanly, respecting dignity of his personality.

### Article 4

Article 7 paragraph 1 is hereby amended as follows:

"(1) The official language in the criminal proceeding is the Serbian language and Cyrillic alphabet. Other languages and alphabets are officially used pursuant to the Constitution and the law.

In paragraph 2 after the words "in accordance with" the following words are inserted "the Constitution and."

### Article 5

In Article 9 paragraph 2 after the word "provide" a comma and the words are inserted "at the expense of budget funds."

### Article 6

In Article 12 the words "of persons deprived of liberty and person with limited freedom" shall be deleted.

### Article 7

Article 13 is hereby deleted.

### Article 8

Article 16 paragraph 1 is hereby deleted.

Paragraph 2 becomes paragraph 1

In Paragraph 3 which becomes paragraph 2 the word "necessary" is replaced by the word "essential".

## Article 9

Article 18 is hereby amended as follows:

"(1) The evidence important for making judicial decisions is assessed by the court following a free judiciary belief. The court can only base the conviction or verdict corresponding to the conviction, on the facts of whose certainty it is fully confident;

(2) Judicial decisions cannot be based on evidence which by their nature or according to the manner of collecting are incompatible with the Constitution and ratified international agreement, or otherwise explicitly prohibited by the present Code or other law;

(3) Court's conviction or verdict corresponding to the conviction shall be ruled in favor of the defendant when there is a doubt concerning the decisive facts, which are distinctive for criminal offence or on which the application of other provisions of the Criminal Code depends."

## Article 10

In Article 24 paragraph 1 after the first sentence, a new sentence shall be added, worded as follows: "In the first instance courts sit in panels composed of three judges when this is provided for by the present Code or other law."

Paragraph 2 changes as follows:

"First instance courts sit in chambers of three judges."

In paragraph 3 the word "seven" is replaced with the word "five".

In paragraph 6 comma and the words "implement procedures and make judgments according to the provisions Article 534 paragraphs 2 to 6 of the present Code "are deleted. Paragraph 7 is hereby deleted.

Paragraphs 8 and 9 become paragraphs 7 and 8.

## Article 11

In Article 36 paragraph 1 the words: "The court determined by the law" are replaced with the words "Supreme Court of Cassation, and the words:" in its territory" are deleted.

## Article 12

In Article 43 paragraph 5 after the words "of Article 42 paragraph" number "2" is inserted and a comma is added.

## Article 13

In Article 45 paragraph 4 the words "of the internal affairs authorities" are replaced by the words "the ministry in charge of internal affairs-police."

## Article 14

In Article 46 paragraph 3 the word "internal affairs authorities" are replaced by the words "Ministry in charge of internal affairs-police (hereinafter referred to as: Internal Affairs Authority)."

## Article 15

Article 71 paragraph 1 the words "or a more severe punishment" shall be deleted.

Paragraph 5 is hereby amended as follows:

"(5) For the defense counsel, a lawyer shall be appointed, by the order of the list, which was delivered to the President of the first instance court by a relative bar association. The Bar Association presents a list of lawyers in alphabetical order. When setting up a defense counsel ex officio, the court is obliged to respect the order of the list."

## Article 16

In Article 73 paragraph 4 the words "in the case referred to in paragraphs 1 and 2 of the present Article" shall be deleted.

## Article 17

In Article 74 paragraph 2 after the words "criminal offence report" a comma is inserted and the following words are added "the crime scene investigation report and expert findings and opinion."

## Article 18

Article 75 paragraphs 4 and 5 shall be deleted.

## Article 19

In Article 78 paragraph 4 in the first sentence after the word "are" the following words are added "as a rule". In the second sentence after the word "at night," the words: "when it was set out by the court order as well as".

## Article 20

In Article 79 paragraph 3 the second sentence is hereby amended as follows: "The person who conducts the search and the present witnesses can only be of the same gender as the searched subject."

After paragraph 8, a new paragraph 9 shall be added, worded as follows:

"(9) audio and video recording may be taken of the course of searching, and the objects found during the search can be separately photographed. The recordings shall be attached to the search record."

## Article 21

Article 81 paragraph 1 is hereby amended as follows:

"(1) Authorized officials of the Internal Affairs Authority may, even without a court order, enter the home or other premises and exceptionally carry out search without presence of witnesses, if the holder of the apartment, requires so or if someone called for help, or for the execution of the court decision on detention or to bring the defendant, or for the immediate arrest and detention of the perpetrator or to avoid immediate and serious danger to people or property. The reasons for the search without the presence of witnesses must be indicated in the report."

Paragraph 4 is hereby deleted.

Paragraphs 5 and 6 shall become respectively Paragraphs 4 and 5.

## Article 22

In Article 82, after paragraph 1 a new paragraph 2 shall be added as follows:

"(2) The objects referred to in paragraph 1 of the present Article, include the devices for automatic data processing and equipment for the storage of electronic records. The person in charge of these devices and equipment is obliged, at the request of the court, to provide access and offer needed instruction for their usage, to the authority conducting the proceedings. Prior to deprivation of these objects, the authority conducting the proceedings, shall, in the presence of a professional person, review the devices and equipment and make their inventory. If the user attends this action he may make objections."

Paragraphs 2 to 5 shall become respectively paragraphs 3 to 6

## Article 23

In Article 85 paragraph 1 the word: "transmits" is replaced by the word "sends."

After paragraph 3, paragraph 4 is inserted worded as follows:

"(4) The measures referred to in paragraph 1 of this Article are revised every three months and can last up to nine months maximum. The implementation of the measures is interrupted as soon as the reasons for their implementation cease to exist. "

## Article 24

In Article 89 paragraph 1 after the word "served" a comma is replaced by the word "and", after the words "second offense" instead of the comma, a full stop is added, and the words: "and if he is a minor, who is his legal representative." are deleted.

In paragraph 2 the words: "Article 13(3)" are replaced by the words "Article 4 (2) item 2).

In paragraph 3 the word "defendant" is replaced by the word "suspect" and after the words "criminal complaint" a comma is added as well as the words " the crime scene investigation report and expert findings and opinion."

In paragraph 8 after the word "deception," the word "unauthorized" is added.

In paragraph 9 the words: "Article 13 (3)" are replaced by words "Article 4 (2) item 2)"

## Article 25

In Article 94, the words: "the confession is obviously false," are replaced by the words "there is reasonable doubt of authenticity of the confession, or the confession".

## Article 26

In Article 97 after the item 3) the item 4) is added worded as follows:

"4) an authorized official of the Internal Affairs Authority on the content information obtained referred to in Article 226 and Article 235 (2) of the present Code. "

## Article 27

In Article 101 after paragraph 1 a new paragraph 2 is added worded as follows:

"(2) The witness who in the previous interrogation, confirmed to have the technical possibilities for such invitation can be summoned by e-mail or other electronic message device, provided that such a way enables the court, inviting the witnesses, to have a feedback that the witness received such summons."

Paragraphs 2 and 3 become paragraphs 3 and 4

## Article 28

After Article 109 the following Articles 109a to 109d shall be inserted:

### "Article 109a

(1) If there are circumstances that clearly indicate that the life, health, physical integrity, freedom or any considerable assets of a witness or persons close to him would be seriously threatened due to his testimony especially in the offences related to organized crime, corruption and other serious criminal offence, the court may decide to order special measures of protection (protected witness).

(2) Special witness protection measures include special method of examination of this witness in order to prevent his identity from being disclosed as well as the measures of physical protection of witnesses during the proceedings.

#### Article 109b

(1) The court may rule to grant special measures of witness protection *ex officio* or at the request of a party or the witness himself.

(2) The request referred to in paragraph 1 of the present Article includes: information on criminal offence about which the witness is interrogated, witness personal data, facts and evidence indicating that in the case of public testimony there is serious and real threat to the life, health, physical integrity, freedom or any considerable assets of a witness or persons close to him, and a description of the circumstances of the subject testimony.

(3) The request referred to in paragraph 1 of the present Article shall be filed in a sealed envelope bearing the marking: “witness protection – official secret”, and is presented to the Investigative Judge in the course of investigation, and after the entry into force of the indictment to the President of the Chamber.

(4) If a witness during examination by the Investigative Judge should deny personal information, answers to some questions or testimony as a whole, with the explanation that there are circumstances under Article 109A (1) of the present Code, it shall be deemed that he has submitted a request to be provided special protection measures, after which the Investigative Judge shall, if he ascertains that the risk is grounded, invite him within three days, to act in accordance with the provisions of the paragraphs 2 and 3 of the present Article. If the Investigative Judge decides that the denial of information, answers or testimony is obviously groundless, or the witness fails to proceed in the prescribed timeline referred to in the provisions of the paragraphs 2 and 3 of the present Article, the provisions of Article 108 (2) of the present Code shall be applied.

#### Article 109v

(1) The decision on specific witness protection measures is issued during the investigation by the Investigative Judge and upon the entry into force by the Trial Chamber if it is in session, i.e. the Chamber provided in Article 24 (6) of the present Code, if the Trial Chamber is not in session. The Trial Chamber shall preclude the public in ruling on the measures of special witness protection (Articles 292 and 293 (1)), without any exceptions under Article 293 (2) of the present Code.

(2) If the Investigative Judge should not agree with the request under Article 109b of the present Code, he shall require the decision to be made by the Chamber (Article 24 (6)). The Chamber is bound to make a decision within three days from the receipt of the files.

(3) If the Investigative Judge or the Trial Chamber accept the request under Article 109b of the present Code, its verdict shall include the following: code that will replace the witness’s name, order for the removal from the file of the name and other data which can disclose witness’s identity, the way to conduct interrogation and measures to be undertaken to prevent disclosure of identity, residence and domicile of witness or persons close to him.

(4) Against the decision referred to in paragraph 3 of the present Article both the parties and the witness may lodge a complaint. An appeal in investigation shall be ruled by the Chamber referred to in Article 24 (6) of the present Code, and after entry into force of the indictment by the Second Instance Court. The decision upon an appeal is to be made within three days, by the Chamber or within eight days upon the receipt of documents by the Second Instance Court.



#### Article 109g

(1) Once the decision on a special witness protection measures becomes binding, the court shall inform the parties and witnesses on the day, hour and location of witness interrogation by a special order, which is an official secret, and in confidential manner.

(2) Prior to interrogation the witness shall be advised that he shall be interrogated under special protection measures, about the type of measures and that his identity shall not be disclosed to anyone except to the ruling judges, and one month before the main trial to the parties and defense counsel as well.

(3) Interrogation of a protected witness can be executed in one or more of the following manners: precluding the public from the main trial, the concealment of the witness, testifying from a separate room through technical voice and image distortion devices for transmission of sound and images.

(4) The Investigative Judge or the Chamber referred to Article 109V of the present Code shall seal the information about the identity of witness and persons close to him and other circumstances which may lead to disclosure of their identity in a separate envelope, and deliver to the Witness Protection Unit. The sealed envelope can be opened only by the second instance chamber which rules on appeal against the verdict. The envelope shall be marked with the date and hour of opening and names of the Chamber members who are familiar with the data contents, after which the envelope shall be re-sealed and returned the Witness Protection Unit.

#### Article 109d

The verdict cannot be based solely on the statement of a protected witness.

#### Article 109d

The court is obliged to warn all the persons attending the examination of protected witness that data about him or persons close to him, their residence, domicile, transfer, bringing, protection, location and manner of examination of a protected witness, are kept secret and that their disclosure is considered a criminal offense. "

#### Article 29

In Article 120 paragraph 2 number "4" is replaced by the number "6".

#### Article 30

After Article 132, Article 132a shall be inserted, worded as follows:

#### "Article 132a

(1) Photos or audio i.e. audio and video clips of actions carried out in accordance with the present Code, can be used as evidence and as a base for court ruling.

(2) When the audio clips used as evidence in criminal proceedings, they must be copied and entered in the criminal cases files.

(3) Photographs, audio, i.e. audio and video recordings which are not referred to in paragraph 1 of the present Article may be used as evidence in criminal proceedings if their authenticity has been proved and any possibility of photomontage or video montage or any other form of tampering has been excluded and if the photograph or the recording has been taken with

the tacit or explicit agreement of the suspect or defendant, where he or his voice are in the photograph or recording.

(4) Photographs, audio, i.e. audio and video recordings which have been taken without the consent of the suspect or defendant if he or his voice is at the photograph or recording may also be used as evidence in the criminal proceedings if the photograph, audio, i.e. audio and video recording also shows another person, or his voice, who has given his tacit or explicit agreement to the taking of the photograph or audio, i.e. audio and video recording.

(5) If a photograph, audio, i.e. audio and video recording contains only some objects or events and persons who are neither a suspect nor a defendant, the photograph, audio or audio and video recording may be used as evidence on condition that it has not been created through the commission of a criminal offense.

(6) Photographs or audio, i.e. audio and video recordings made without the tacit or explicit agreement of the suspect or defendant who is on them or whose voice has been recorded, may be used as evidence in criminal proceedings if the photographs or audio, i.e. audio and video recordings have been taken as part of general security measures applied in public spaces – streets, squares, parking lots, schoolyards and yards of institutions and similar public areas, or within public facilities and rooms – government authorities buildings, institutions, hospitals, schools, airports, bus and railway stations, sports stadiums and arenas and other similar public premises and open spaces as well as at shops, stores, banks, exchange bureaus, business facilities and other similar facilities where recordings are regularly made for security reasons.

(7) Photographs or audio, i.e. audio and video recordings taken without the tacit or explicit agreement of the suspect or defendant who is shown in them or whose voice has been recorded, may be used as evidence in criminal proceedings if the photographs or audio, i.e. audio and video recordings have been taken as part of security measures taken by the occupant of an apartment and other premises or by some other person at the order of the occupant of the apartment and other premises, including gardens and similar open spaces. (8) When photographs or audio, i.e. audio and video recordings have been taken in accordance with paragraph 1 and paragraphs 3 to 7 of the present Article, a part of the photograph or recording, extracted by appropriate technical means, and a photograph made from a frame in a video recording may be used as evidence in criminal proceedings.

(9) When photographs or video, i.e. audio and video recordings have been created in accordance with paragraph 1 and paragraphs 3 to 7 of the present Article, a drawing or a sketch made on the basis of the photograph or video recording may be used as evidence in criminal proceedings, if it has been made in order to clarify a detail in the photograph or recording and if the photograph or recording is part of the evidence documents.”.

## Article 31

In the title above Article 136 after the word "abandonment" the following is added: "apartment or place."

In Article 136 (1) after the word "leave" the words shall be inserted "his apartment or”.

In paragraph 2 after the word "persons" the words shall be added "or approaching to certain persons.”.

In paragraph 3 after the word "relatives" a comma and the words “unless such persons are not included in the measure under paragraph 2 of the present Article”, and after the word "with defense counsel" comma and words "as well as to perform his professional activities" shall be deleted.

In paragraph 5 after the word "answer", a comma and a word "or" shall be replaced by the word "and".

In paragraph 6 after the words "President of the Chamber," the words are inserted "or the Chamber”.

In paragraph 7 the word "or" is replaced by a comma and the word "obliged" is replaced by words "or the Chamber is obliged".

In paragraph 9 after the word "shall be included in the pronounced," the following words are inserted "penalty or confiscation of driver's license".

After paragraph 9, the paragraphs 10 and 11 are added, worded as follows:

(10) The Court may order that the defendant who is determined one or more measure referred to in paragraphs 1 and 2 of the present Article, is applied the electronic surveillance for monitoring compliance with the limitations that are determined to the defendant, provided that it will not harm the health of the accused. A device for location of defendant (transmitter) is fixed on the defendant's wrist or joint by an expert person, who, on that occasion gives the defendant detailed instructions on the work of the device. An expert handles also the device for remote monitoring of the defendant's movement and his position in space (the receiver). Electronic surveillance is conducted by the Internal Affair Authority, the Security Intelligence Agency or other government authority.

(11) Measures referred to in paragraph 3, item 1 and 2 may be ordered as independent measures, if necessary, in order to protect injured party or witness, prevent defendant from influencing the witnesses, accomplices and abettors, or if there is a danger that defendant should complete the criminal offense, repeat it, i.e. perpetrate the criminal offense he threatened to commit."

#### Article 32

In Article 137 the words "paragraph 2 Item 4)" shall be replaced by the words "paragraph 1 item 4)", and after the word "promise," the following shall be inserted "before the court ruling on a bail".

After paragraph 1 the following paragraph 2 shall be inserted, worded as follows:

"(2) a bail can be established as a measure of security of the restrictions referred to in Article 136 paragraph 2 and paragraph 1 of the present Code. "

#### Article 33

In Article 138 paragraph 1 words "which" shall be replaced by the words "which the Court".

#### Article 34

In Article 139 paragraph 2 words "paragraph 2 Item 4)" shall be replaced by the words "paragraph 1 item 4)."

#### Article 35

Article 141 paragraph 1 is hereby amended as follows:

"(1) Custody may be established only by the court on conditions provided for in the present Code, if the detention is necessary to conduct criminal proceedings and if the same purpose can not be achieved by another measure."

In paragraph 2 after the words "legal aid" the following is inserted "to reduce the duration of detention to the shortest necessary time."

#### Article 36

Article 142 is hereby amended as follows:

"(1) Custody may be ordered against a person who is reasonably suspected of committing a crime if:

1) he is hiding or if you can not establish his identity, or if there are other circumstances indicating a danger of escape;

2) there are circumstances indicating that he shall destroy, conceal, alter or falsify evidence or traces of criminal offence or if some special circumstances indicate that the person will obstruct the proceeding by influencing witnesses, expert witnesses, accomplices or abettors;

3) the circumstances indicate that the person will repeat the offense, or attempt to complete a criminal offense, repeat it or perpetrate the criminal offense he threatened to commit;

4) as a defendant who is once duly summoned, apparently avoiding coming to the main trial;

5) if sentence prescribed by the Code for the criminal offense he is charged with, is over 10 years of imprisonment and if it is grounded due to especially severe circumstances of criminal offense;

6) if defendant has been sentenced by the first instance court to five years in prison or more, or there are other particularly severe circumstances of the criminal offense.

(2) In cases referred to in paragraph 1 of this Article, detention order solely for the reason of not being able to establish the identity of the person, shall last only until his identity has been established. In cases referred to in paragraph 2 item 1) of this Article, detention shall be vacated as soon as evidence because of which detention was ordered, have been obtained. Detention ordered for reasons set forth in paragraph 1, item 4 of this Article, may last until the judgment is rendered.”

#### Article 37

After Article 142 the following Article 142a shall be inserted worded as follows:

#### "Article 142a

(1) Decision on ordering the detention is made by the Investigative Judge or the Chamber upon interrogation of the accused. The decision on extension or vacation of detention is made at Chamber session, except in the case referred to in Article 145 of the present Code.

(2) Public prosecutor and the defendant's counsel may attend the interrogation referred to in paragraph 1 of the present Article.

(3) The court is obliged to duly inform the Public Prosecutor and defendant's counsel about the time and location of interrogation referred to in paragraph 1 of the present Article. The interrogation may be conducted in the absence of notified persons.

(4) Separate reports, that are attached to the file, shall be made about the interrogation or meeting where the Chamber rules on detention

(5) Except for the case referred to in paragraph 1 of the present Article this decision on detention can be made without interrogation of the defendant if the summons for interrogation could not be delivered because of his unavailability, or failure to change address or if there is a danger of deferral. "

#### Article 38

In Article 143 paragraph 3 the words "24 hours" are replaced by the words "12 hours". In paragraph 4 the words: "a detained person may" are replaced by the words "the parties may," and the words "within 24 hours from the delivery of ruling" shall be deleted.

In paragraph 5 words: "a detained person may" are replaced by the words "the parties may".

In paragraph 6 after the words "is bound to make" the following words are added "and submit".

After paragraph 6, the paragraph 7 shall be added, worded as follows:

(7) If the decision on detention is imposed without interrogation of the defendant, the court shall, within 48 hours from the hour of detention of the defendant, act in compliance with Article 142a (1) to (4) of the present Code. "

#### Article 39

In Article 144 paragraph 3 the words "Chamber of the Supreme Court" shall be replaced by the words "Chamber of the first higher instance court," after the word "execution of verdict," a comma is replaced by a full stop, and the words "ruled by the Supreme Court of Serbian in a chamber composed of three judges." shall be deleted.

#### Article 40

In Article 146 paragraph 1 is hereby amended as follows: "After the delivery of the indictment to the court until the conclusion of the trial, the ruling on establishment, extension or vacation of detention shall be rendered in accordance with Article 142a of the present Code."

#### Article 41

In Article 147 paragraph 1 after the word "immediately" a comma shall be added and the words "and within 24 hours from the time of detention," shall be deleted.

In paragraph 2 the words "immediately and not later than the next working day" shall be replaced by the words "without deferral".

#### Article 42

In Article 150 paragraph 1 after the second sentence, a sentence is inserted, worded as following: "Against the decision of the Investigative Judge on prohibition of certain visits, a detainee may lodge a complaint which shall not stay its execution.".

After paragraph 2, a new paragraph 3 is inserted, worded as following:

"(3) The Ombudsman, the Commission of the National Assembly, in compliance with the law and international organizations, in accordance with the ratified international treaty, have the right to freely visit detained persons and to talk to them without the presence of other persons..."

Paragraph 3 becomes paragraph 4 and is hereby amended as follows:

"(4) Detainee may maintain correspondence with persons outside the prison, with the knowledge of and under the supervision of the Investigative Judge. Investigative Judge may prohibit mailing and receiving of letters and other parcels that are prejudicial for the course of the proceeding. Against the decision of the Investigative Judge a detainee may lodge a complaint that shall not stay its execution.

After the new paragraph 4, paragraphs 5 and 6 shall be inserted, worded as follows:

"(5) This restriction does not apply to letters exchanged by detainee with his defense counsel, unless otherwise provided for in the present Code, as well as to the letters that a detainee sends to international courts, international organizations dealing with human rights, Ombudsman and domestic legislative, judicial and executive authorities, or which he receives from them.

(6) Mailing of pleas, appeals or motions may never be prohibited to persons deprived of liberty or to detained persons. Such documents are sent and received in a sealed envelope,

which is to be closed and opened in front of the detainee, and only in order to view the content of the envelope, and not the contents of letters.”

Paragraph 4 becomes paragraph 7 and the words: "paragraphs 1 to 3" shall be replaced by the words "paragraphs 1, 2 and 4.”.

#### Article 43

In Article 152 paragraph 2 the words: "impose necessary measures to remedy the irregularities found during the tour of the prison" shall be replaced by the words "on the irregularities observed during the visit to prison without deferral notify the Ministry in charge of justice, which is bound, within 15 days from receipt, to note the President of the court i.e. the judge on the measures taken for their elimination”.

#### Article 44

In Article 156 paragraph 2 the words: "and whether criminally liable" shall be deleted. In paragraph 3 the words "criminal liability and” shall be deleted.

#### Article 45

In Article 159 paragraph 1 after the word "mail" a comma and the words "of other legal persons registered for serving of letters of the Internal Affairs Authority”.

#### Article 46

In Article 160 after paragraph 1, a paragraph 2 shall be inserted, worded as follows:

"(2) With the exception of paragraph 1 of the present Article, it shall be deemed that a letter, which under the present Code is requested to be served in person, is duly delivered, if served to the address indicated to the court by a person to whom the letter is to be served or if served to the address at which at least one previous serving was duly made, and the person to whom the letter is served did not report change of address.

#### Article 47

In Article 166 paragraph 4 the words: "if the procedure referred to in Articles 532 and 533 of the present Code is not applied,” shall be deleted.

#### Article 48

In Article 169 paragraph 2 after the word "by phone" a comma is added, followed by the words "by electronic mail or other electronic messages conveyor, provided that such a way enables the authority summoning that person, to have feedback information that the person received summons, i.e. notice.”

#### Article 49

In Article 170 paragraph 5 is hereby amended as follows:

"(5) The defendant or suspect who was interrogated under the provisions of the present Code on defendant’s interrogation and the defense counsel have the right to review records and inspect the collected objects that serve as evidence.”.

## Article 50

In Article 171 after paragraph 4, paragraphs 5 and 6 are inserted, worded as follows:

"(5) The Court may, in compliance with the court Rules of Procedure, commit the party, the injured party and other participants in the proceedings to file their suggestions, remedies, other statements and announcements, to the court in electronic form

(6) Reports and documents referred to in paragraph 5 of the present Article are kept by the Court in electronic form as well, in accordance with the court Rules of Procedure."

## Article 51

In Article 184 paragraph 1 is hereby amended as follows:

"(1) a defendant who fails, for a legitimate reason, to appeal, within the deadline, against the verdict or ruling on implementation of security measure or seizure of pecuniary benefit, i.e. the deadline for filing complaints against the sentence, shall be granted by the court order the return to the previous state of affairs, for appeal or complaint, if within eight days upon the expiry of the causes for which he has omitted the deadline, applies for return to the previous state of affairs and if simultaneously with the request, lodges an appeal or complaint. "

## Article 52

In Article 185 paragraph 3 is hereby amended as follows:

"(3) When a defendant lodged a complaint against the decision denying the return to the previous state of affairs, the court is obliged to deliver this appeal, accompanied with the appeal against the decision or verdict on implementation of security measure or seizure of pecuniary benefit, i.e. together with the complaint against sentence, as well as with the answer to the complaint and all files, to directly higher instance Court for ruling."

## Article 53

In Article 186 after the word "verdict", the words "about punishment or," shall be inserted, the words "or educational measures" shall be deleted and the words "the execution is deterred" shall be replaced by the words "the execution is adjourned."

## Article 54

In Article 193 paragraph 2, item 6) the words "blood tests" shall be replaced by the words "medical and biological analysis".

In paragraph 5 after the word "translation," the following words shall be inserted "and interpretation".

## Article 55

In Article 194 paragraph 1 after the word "verdict", the following words shall be inserted "on the punishment, ruling and rendering of judicial warning and ruling."

In paragraph 2 the words "on the suspension of criminal proceedings" shall be replaced by the words "referred to in paragraph 1 of the present Article".

## Article 56

In Article 221 item 4) the words "criminally liable" shall be replaced by the words: "perpetrated".

Item 8) is hereby amended as follows:

"8) The term Public Prosecutor refers to the Public Prosecutor and Deputy Public Prosecutor."

## Article 57

In Article 229 after paragraph 6, the paragraphs 7 and 8 shall be inserted worded as follows:

“(7) The List of attorneys referred to in paragraph 6 of the present Article is made by the Bar Association in alphabetical order. When appointing a defense counsel ex officio, the authority is bound to respect the order of the list. The internal affair authority is bound to make an official note about the reasons for deviation from the order of the list of lawyers.

(8) the List of attorneys referred to in paragraph 6 of the present Article, with the data on engagement of lawyers, is published by the Bar Association on its Web site.”

## Article 58

Articles 232 and 233 are hereby deleted.

## Article 59

Article 234 is hereby amended as follows:

"(1) A Public Prosecutor may request that the competent government authorities, banking or other financial institutions make an inspection of business activities of certain individuals suspected of committing a crime for which imprisonment of at least four years is predicted and submit to him documents and data that may be used as evidence of a criminal offense or proceeds from criminal offense, as well as information on suspicious financial transactions referred to in the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds arising from criminal offense. The Public Prosecutor is bound to notify immediately the Investigative Judge about the request and the collected data.

(2) Upon the written and substantiated request by the Public Prosecutor, under the conditions referred to in paragraph 1 of the present Article, the Investigative Judge may decide that the competent authority or an organization temporarily suspend a financial transaction, payment i.e. operation with suspicious money, securities or objects for which there are grounds for suspicion that they originate from crime or proceeds arising from criminal offense, or that they are intended for perpetration or concealment of criminal offense.

(3) The decision of the Investigative Judge referred to in paragraph 2 of the present Article is made in a form of verdict. Against the decision of the Investigative Judge, the owner of financial assets has the right to appeal. The Chamber referred to in Article 24 (6) of the present Code is ruling on the appeal.

(4) The Public Prosecutor shall detail the contents of the measure or action proposed in the request referred to in paragraph 2 of the present Article.

(5) If the Public Prosecutor fails to institute criminal proceedings within six months from the day when he got acquainted with the data collected by using the measures referred to in paragraphs 1 and 2 of the present Article or declares that he shall not use them in the proceedings i.e. that he shall not require the proceedings, all the submitted data shall be destroyed under the supervision of the Investigative Judge, who shall make a report about it.".

## Article 60

In Article 235 the paragraph 1 is hereby amended as follows:

"(1) The Public Prosecutor shall reject the criminal offence report if from the report it results that the reported act is not a criminal offence and that is not to prosecute ex officio, in case of the statute of limitation or subject to amnesty or pardon or if there are other circumstances that preclude prosecution or there is no reasonable suspicion that the suspect



committed a criminal offence. The rejection of the criminal offence report, as well as the reasons for it, are to be communicated to the injured party by the Public Prosecutor within eight days (Article 61), and if the criminal offence report was filed by the Internal Affairs Authority, that authority is to be notified as well.”

In paragraph 4 the words: "or if there is no reasonable suspicion that the suspect committed a criminal act," shall be deleted.

#### Article 61

In Article 236 paragraph 1 after the words "Public Prosecutor can" a comma and the words "with the consent of the court," shall be deleted.

After item 6), the items 7) and 8) shall be inserted worded as follows:

"7) to perform the obligation established by the final court decision i.e. to comply with the restrictions established by the final court decision,

8) to pass the driving exam, complete an additional driver's training or complete another appropriate course. "

After paragraph 1 a new paragraph 2 is inserted, worded as follows:

"(2) Upon approval of the Chamber referred to in Article 24 (6) of the present Code, the Public Prosecutor may defer prosecution for criminal acts for which imprisonment of over three and up to five years is envisaged. "

Paragraphs 2 and 3 become respective paragraphs 3 and 4.

After paragraph 4, paragraphs 5 to 9 shall be inserted, worded as follows:

"(5) When the Public Prosecutor assesses that the injured person who has been fully indemnified, for the obviously unreasonable grounds, does not agree that the suspect perform the obligations referred to in paragraph 1 items 2) and 3) of the present Article, and the Public Prosecutor considers such fulfillment of obligations appropriate, he shall require that the Chamber referred to in Article 24 (6) of the present Code, approves the enforcement of these obligations. If the Chamber referred to in Article 24 (6) of the present Code authorize the execution of these obligations referred to in paragraph 1 item 2) and 3) of the present Article, and suspect fully performs them, the provisions under Article 61 of the present Code shall not apply.

(6) Public Prosecutor may, with the consent of the court before which the main trial is held, until the completion of the trial, for the crime for which a fine or imprisonment up to three years is envisaged, restrain from criminal prosecution if the suspect fulfills one or more measures referred in Paragraph 1 of the present Article. As for the measures in paragraph 1 items 2) and 3) of the present Article, an approval of the injured is required, or a rule referred to in paragraph 5 of the present Article shall be applied.

(7) Public Prosecutor may proceed in compliance with the paragraph 6 the present Article even when the proceedings for a criminal offense for which imprisonment of over three years was envisaged, and up to five years, if it is approved by the decision of the Chamber referred to in Article 24 (6) of the present Code.

(8) When the sentence rejecting the charges is made due to the Public Prosecutor withdrawal made from prosecution in accordance with paragraphs 6 and 7 of the present Article, the provisions of Article 62 the present Code shall not apply. "

(9) When a complaint is filed for a criminal offense for which the penalty envisaged is fine or imprisonment up to three years, the Public Prosecutor is obliged before submitting of criminal offence report, i.e. before submitting a proposal for implementation of investigative actions, to examine the options for deferral of criminal prosecution, and therefore carry out an interview with the suspect and the injured, as well as with other persons, i.e. collect other necessary data, and compile the official note thereof.”

#### Article 62

In Article 243 paragraph 3 the word "party" shall be replaced by the words "Public Prosecutor and the suspect."

In paragraph 6 after the words "(Article 24 paragraph 6)" the full stop is replaced by a comma and the following words are added "which is bound to make a decision within 48 hours.”

#### Article 63

In Article 244 paragraph 6 the words "up to five years" are replaced by the words "up to eight years".

#### Article 64

In Article 251 paragraph 1 is hereby amended as follows:

"(1) Interrogation of the defendant can be done only in the presence of a Public Prosecutor. The injured as a prosecutor, private prosecutor, counsel and co-defendant who has been interrogated and his counsel may attend the hearing of the defendant. "

In paragraph 4 after the word "defendant" a comma is inserted and the words "and counsel, and the damaged only when it is probable that the witness shall not come to the main hearing" shall be replaced by the words "defense counsel and the injured."

#### Article 65

In Article 252 paragraph 3 the words "and criminal liability" shall be deleted.

#### Article 66

In Article 254 paragraph 1 item 1) after the word "criminal offence" a comma is inserted and the words: "that is prosecuted ex officio" are replaced by the words "and there are no conditions for implementation of security measures."

Item 2) is hereby deleted.

Items 3) and 4) become respectively items 2) and 3).

#### Article 67

In Article 255 paragraph 2 is hereby amended as follows:

"(2) If there are conditions for the imposition of a single sentence, which shall include penalties from the previous judgments or decisions on punishment, the Investigative Judge shall request the case file in which these decisions were rendered, or certified copies of final decisions."

#### Article 68

In Article 261 the words: "If it is required by criminal proceedings interests, the interests of keeping secrets, the interests of public order, morals or the protection of personal or family life of the injured or the defendant" shall be replaced by the words: "If it is required by the interests of morality, public order, national security interests, interests of the protection of minors or private life of the parties in the proceedings, or if necessary due to special circumstances in which the public could violate the interests of justice. "

#### Article 69

In Article 263 paragraph 1, number "100.000" shall be replaced by the number "500.000". In paragraph 3 number "5" is replaced by number "10".

#### Article 70

In Article 268 paragraph 1, the words: "items 1) to 3)" shall be replaced by the words "items 1) and 2).

## Article 71

In Article 272 paragraph 3 after the word "attitudes" a comma and the words "except in the case of Article 282v paragraph 5 of the present Code." shall hereby be inserted.

## Article 72

In Article 274 paragraph 1 item 1) after the word "criminal offence" an added comma and the words "and there are no conditions for implementation of security measures." shall hereby be inserted.

Item 2) is hereby deleted.

Items 3) and 4) become respectively items 2) and 3).

## Article 73

In Article 275 paragraph 1 the words: "items. 1) to 3) "shall be replace by the words "items 1) and 2)", and the word "item 4)" shall be replaced by the words "item 3).".

## Article 74

After Article 282, a Chapter XXa shall be inserted, worded as follows:

### "Chapter XXa

#### PLEA AGREEMENT

##### Article 282a

(1) In the case of criminal proceedings for a criminal offense or concurrence of criminal offenses for which a prison sentence of up to twelve years is envisaged, the Public Prosecutor may offer to the defendant and his defense counsel the conclusion of a plea agreement, i.e. the defendant and his defense counsel may suggest the conclusion of such an agreement to the Public Prosecutor.

(2) When a proposal referred to in paragraph 1 of the present Article is made, the parties and the defense counsels may negotiate the conditions for the admission of guilt for a criminal offense i.e. criminal offenses the defendant is charged with.

(3) The plea agreement must be made in writing and the latest date for its submission shall be the date of the first opening session of the main trial.

(4) If an indictment has still not been raised the plea agreement shall be submitted to the President of the Chamber referred to in Article 24 (6) of the present Code, and upon raising the indictment the plea agreement shall be submitted to the President of the Chamber.

(5) The defendant and his defense counsel may refer to the concluded plea agreement in their objection to the indictment.

##### Article 282b

(1) In a plea agreement, the defendant confesses the entire criminal offense he has been charged with, i.e. confess one or several concurrent criminal offenses which constitute the subject matter of the indictment, and the defendant and the Public Prosecutor shall agree upon the following:

1) on the type and length of the sentence i.e. on other criminal sanctions to be pronounced against the defendant;

2) on the Public Prosecutor's waiver from the prosecution of criminal offenses that have not been included in the plea agreement;

3) on the costs of the criminal proceedings and indemnification claim;

4) on the waiver by the parties and defense counsels of the right to appeal to the court ruling rendered based on the plea agreement, when the court has fully accepted the agreement.

(2) In the plea agreement, the Public Prosecutor and the defendant may agree on a sentence that, as a rule, cannot be lower than the legally defined minimum sentence for the criminal offense defendant was charged with.

(3) Exceptionally, when this is evidently justified by the importance of the defendant's confession for the solution of the criminal offense he was charged with, which would be impossible or very difficult to prove without such a confession, or for preventing, detecting or proving other criminal offenses, or when there are specially extenuating circumstances referred to in Article 54 (2) of the Criminal Code, the Public Prosecutor and the defendant may agree on a more lenient sentence for the defendant within the limits envisaged under Article 57. of the Criminal Code.

(4) Under the plea agreement, the defendant may undertake fulfillment of obligations referred to in Article 236 (1) of the present Code on condition that the defendant may fulfill them by the date when the plea agreement is submitted to the court due to the nature of these obligations, i.e. that he starts fulfilling his obligations by the date when the plea agreement is submitted to the court.

(5) In the plea agreement, the defendant may undertake the obligation to return the proceeds of criminal offense, or the object of the criminal offense within a set term.

#### Article 282v

(1) The court shall rule on the plea agreement, and it may dismiss it, accept it or deny it with its ruling.

(2) When a plea agreement has been submitted before an indictment has been raised, it shall be decided upon by the President of the Chamber referred to in Article 24 (6) of the present Code.

(3) When a plea agreement has been submitted after the indictment has been raised, i.e. the defendant or his defense counsel refer to such an agreement in the objection to the indictment, a decision on the agreement shall be made by the President of the Chamber.

(4) The President of the Chamber shall dismiss the plea agreement if it has been filed after the completion of the first opening session of the trial. The ruling on rejection of the plea agreement is not subject to appeal.

(5) The court shall decide on the plea agreement at a hearing attended by the Public Prosecutor, defendant and defense counsel, while the injured party and his proxy representative shall be notified of the hearing. Should the defendant fail to take a defense counsel, a court shall appoint one for him ex officio, not later than eight days before the beginning of the hearing. Such appointed defense counsel shall perform his duty until the decision referred to in paragraph 9 of the present Article becomes final i.e. until the ruling referred to in Article 282d of the present Code is made.

(6) The hearing referred to in paragraph 5 of the present Article shall be open to the public (Article 291), and the public may be excluded from the entire course of the hearing or from its part only due to the reasons set forth in Articles 293 and 294 paragraph 4 of the present Code.

(7) The court shall decide to dismiss the plea agreement if the duly summoned defendant has not appeared at the hearing. The ruling to dismiss the plea agreement cannot be appealed. The hearing referred to in paragraph 5 of the present Article may be held without the presence

of the duly summoned Public Prosecutor, on which the court shall inform the directly superior Public Prosecutor.

(8) The court shall accept the plea agreement in a reasoned ruling and pass a decision that corresponds to the contents of the agreement if it determines:

1) that the defendant has knowingly and voluntarily admitted the criminal offense or criminal offenses that constitute the subject matter of the indictment, and that the possibility that the defendant has been misled when he confessed has been ruled out;

2) that the agreement has been concluded pursuant to Article 282b paragraphs 2 and 3 of the present Code;

3) that the defendant is fully aware of all the consequences of the agreement (Article 282 (1)), and especially that he fully understands that in the plea agreement he has waived the right to a trial and to an appeal on the decision of the court rendered based on the agreement;

4) that there is other evidence corroborating the defendant's admission of guilt;

5) that the plea agreement has not violated any of the injured person's right, or that it is not in contradiction with the reasons of fairness.

(9) When one or several conditions referred to in paragraph 8 of the present Article have not been met, or when another criminal sanction was set out in the plea agreement which evidently does not correspond to the confessed criminal offence, the court shall adopt a reasoned ruling denying the plea agreement and the defendant's confession from the agreement shall not be used as evidence in the criminal proceeding.

(10) Once the ruling referred to in paragraph 9 of the present Article becomes final, the agreement and all related documents shall be destroyed before the court, on which an official note shall be made, and the judge who made the ruling referred to in paragraph 9 of the present Article cannot participate in further proceedings .

(11) The Public Prosecutor, defendant, lawyer, injured party and his proxy shall be served with the court decision on the plea agreement.

#### Article 282g

(1) The Public Prosecutor, defendant and his defense counsel may appeal the court ruling denying the plea agreement within eight days after the date when they have been served with the ruling.

(2) The injured party and his proxy may appeal the ruling of the court to accept the plea agreement within the term referred to in paragraph 1 of the present Article.

(3) The Chamber referred to in Article 24 paragraph 6 of the present Code shall decide on the appeals referred to in paragraphs 1 and 2 but the judge who made the ruling denied by the appeal cannot be a member of the Chamber.

(4) The Chamber that is in charge of deciding on an appeal against the ruling on the plea agreement may dismiss the appeal if it has been filed after the expiry of the term referred to in paragraph 1 of the present Article, accept it or deny it as unfounded.

(5) No appeals may be made against the ruling referred to in paragraph 4 of the present Article.

#### Article 282d

(1) Once the ruling to accept a plea agreement has become final, it shall be regarded as an integral part of the indictment if one has already been raised, i.e. the Public Prosecutor shall draw up the indictment within three days in which the plea agreement shall be included, if the indictment has not been previously raised, and the President of the Chamber shall without deferral render a judgment finding the defendant guilty, impose a sentence or some other criminal sanction against him, and decide on other issues envisaged in the plea agreement (Article 282b).

(2) In addition to the contents of the plea agreement (Article 282b), the judgment referred to in paragraph 1 of the present Article shall also contain the data referred to in Article 356 of the present Code.

(3) Persons referred to in Article 360, paragraphs 3 to 5. of the present Code shall be served with the judgment referred to in paragraph 1 of the present Article along with the instruction that no appeal shall be permitted against it.

(4) If the plea agreement envisages that the Public Prosecutor may waive the prosecution of criminal offenses which are not included in the plea agreement (Article 282b, paragraph 1, item 2), the court shall render a judgment referred to in Article 354 of the present Code for these criminal offenses and the injured party shall not have the right referred to in Article 61 of the present Code.

#### Article 75

In Article 283 paragraph 2 after the words "president of the court," the words "and the president of directly superior court," shall be inserted and after the words "President of the court," the words "and the president of directly superior court." shall be added.

#### Article 76

Article 292 is hereby amended as follows:

" The Trial Chamber may, at any time from the opening until the end of main trial, *ex officio* or at the motion of the parties but always after hearing their statements, exclude the public from the whole or part of the trial, if this is necessary for the protection of moral, to maintain public order, to protect national security, for the protection of the interests of a minor or for the protection of the personal life of the participant in the proceedings or when it is necessary, in Court opinion, due to some special circumstances in which the public could damage interests of justice.”.

#### Article 77

In Article 296 paragraph 1 after the words "accused," the word “examine” shall be added.

#### Article 78

Article 299 is hereby amended as follows:

#### "Article 299

(1) If the defendant, defense counsel, the injured person, legal representative, proxy, witness, expert witness, interpreter or other person attending the trial disturbs order, violates the dignity of the court or fails to comply with orders of the President of the Trial Chamber on maintenance of order, the President of the Trial Chamber can warn him i.e. order that such a person be removed from the courtroom, and may also discipline such a person with a fine up to 500.000 RSD.

(2) If the person specified in paragraph 1 of the present Article, with the exception of the defendant and defense counsel, after pronouncing of the fine specified in paragraph 1 of the present Article continues to disturb the order and disobey the instructions of the President of the Trial Chamber regarding maintenance of order, and by doing so displays serious contempt of the court and seriously frustrates conducting of the trial, the President of the Trial Chamber shall make a separate record which shall include the statements of such a person and description of his behavior, and shall submit this record together with the copy of the trial record and, if necessary, with a copy of other documents, to the President of the Court. The President of the Court may, within 8 days, issue a decision on fine amounting up to 500.000

RSD or imprisonment up to 15 days, i.e. may pronounce both penalties to the person specified in paragraph 1 of the present Article.

(3) An appeal may be filed against the ruling on sanctioning specified in paragraphs 1 and 2 of the present Article to the chamber referred to in Article 24 (6) of the present Code. The appeal shall not stay enforcement of the decision nor shall it represent grounds for suspension or adjournment of the trial. The President of the Trial Chamber, i.e. the President of the Court shall submit to the chamber ruling on the appeal, a copy of the trial record and, if necessary, a copy of other files.

(4) Exceptionally, the ruling on sentencing referred to in paragraph 2 of the present Article may be revoked by the Chamber if the sanctioned person apologizes to the court and promises not to disturb the order in the courtroom any more.

(5) Other rulings related to maintenance of order and conduct of the trial shall not be a subject to appeal.

(6) Penalty set forth in paragraphs 1 and 2 of the present Article does not preclude criminal prosecution of the fined person if his action concurrently constitutes a criminal offence, in which case action shall be undertaken pursuant to Article 301 of the present Code.

(7) If the defendant is removed from the courtroom, the President of the Trial Chamber shall order that he be returned to the courtroom immediately following conclusion of the action during which he was removed. If the defendant continues to disturb the order in the courtroom, the Trial Chamber may remove him again from the courtroom for a certain period of time, and if the defendant has already been questioned at the trial, then for the duration of the evidentiary proceedings. Prior to conclusion of evidentiary proceedings the President of the Trial Chamber shall ensure the presence of the defendant, inform him of the course of the trial, inform him about the statements of previously questioned co-defendants, i.e. enable him to read the record of these statements if he so wishes, and shall ask him to plead in respect of the charges, if he has not done so before. If the defendant should continue to disturb the order and insult the dignity of the court, the Trial Chamber may again remove him from the hearing, in which case the trial shall be concluded in the absence of the defendant, and the verdict shall be communicated to him by the President of the Trial Chamber or by a judge- member of the Trial Chamber in the presence of the court reporter.

(8) The Trial Chamber may deny further defense or representation at the trial to a defense counsel or proxy who after being penalized continues to disturb order, and in such a case the party shall be called to retain another defense counsel i.e. proxy. If the defendant who has not been questioned is unable to do so, or if in case of mandatory defense the court cannot assign a new defense counsel without prejudicing the defense, the trial shall be suspended or adjourned and the defense counsel shall be ordered to bear the costs of such suspension or adjournment. If the private prosecutor or the injured as prosecutor do not retain another counsel, the Trial Chamber may decide to continue the trial in the absence of proxy, if it finds that his absence would not prejudice the interests of the represented person, and if the trial is suspended or adjourned when continuing of the trial is impossible without a proxy, the proxy shall be obligated to bear the cost of such suspension or adjournment. A ruling thereupon, shall be entered into the record along with the statement of reasons. This ruling is not subject to special appeal.

(9) If the Trial Chamber removes from the courtroom the subsidiary prosecutor or the private prosecutor or their legal representative from the courtroom, the trial shall continue in their absence.

(10) If the Public Prosecutor or person deputizing for him disturbs order, violates the dignity of the court or fails to comply with the orders of the President of the Trial Chamber regarding order, the President of the Trial Chamber shall warn such person, enter the warning in the trial record and accordingly notify the relevant Public Prosecutor and the directly higher ranking Public Prosecutor. The President of the Trial Chamber may suspend the trial and request the competent Public Prosecutor to appoint another person to represent the prosecution.

(11) If the President of the Trial Chamber or the Trial Chamber sanctions a defense counsel

or attorney apprentice who disturbs order, violates the dignity of the court or does not comply with instructions of the President of the Trial Chamber regarding maintenance of order, the President of the Court shall accordingly notify the relevant Bar Association, which is bound to inform the President of the Trial Chamber and the President of the Court of the measures undertaken within two months from the moment it received the notice.

#### Article 79

In Article 305 paragraph 1 in the second sentence after the word "counsel" a comma is hereby deleted and the words: "if the defendant agrees to that." shall be added.

#### Article 80

In Article 308 paragraph 1 after the word "new evidence," the following words are inserted "whose acquisition requires long time."

#### Article 81

Article 309 is hereby amended as follows:

##### „Article 309

(1) The trial that has been adjourned has to be started anew if the trial chamber has changed; however, the chamber trial may decide, based on the statements made by the parties, that witnesses and expert witnesses need not be examined anew but their earlier testimony given at the earlier trial is read.

(2) The trial that has been adjourned, but is now being held before the same trial chamber, shall continue and President of the Trial Chamber shall briefly inform of the course of the previously held trial, however, the trial chamber may decide in such a case to start the trial anew.

(3) The trial that has been adjourned, while it is being held before another President of the Trial Chamber, it has to start anew and all evidence has to be reentered.

(4) As an exception to paragraph 3 of this Article, President of the Trial Chamber may, based on the statements made by the parties, request from the trial chamber referred to in Article 24, paragraph 6 of this Code to decide for certain evidence not to be reentered.

(5) If the chamber referred to in Article 24 paragraph 6 of this Code determines that because of the expiration of time, witness protection or other important reasons it is justified that certain witnesses and expert witnesses do not testify again, it will decide in a decision that the trial records regarding the evidence recorded at the former trial be read. No appeal is permitted against this decision.

(6) President of the Trial Chamber is required to inform the president of the court of any adjournment lasting for more than two months”.

#### Article 82

Article 310 is hereby amended as follows:

##### „Article 310

(1) Except in cases provided in this Code, President of the Trial Chamber may stay the trial for the purposes of obtain certain evidence within a short time period, preparation of prosecution or defense, vacation or end of work hours.

(2) Thus stayed the trial shall be continued, as a rule, on the next business day.

(3) In any case, thus stayed the trial shall be continued before the same trial chamber.

(4) If the trial cannot be continued before the same trial chamber or if the stay of the trial has lasted for more than eight days, provisions of Article 309 of this Code shall apply”.



## Article 83

In Article 320, paragraphs 2 and 3 are hereby amended as follows:

„(2) Thereafter, President of the Trial Chamber shall ask the defendant whether he admits the commission of the criminal offense that he has been accused of and ask him to, if he so desires, respond to the accusation and plead his defense. The defendant is not required to respond to the accusations or to plead his defense.

(3) The refusal of the defendant to respond to questions referred to in paragraph 2 of this Article shall be deemed a denial.”

After paragraph 3, new paragraphs 4 through 7 are added that read:

„ (4) When the defendant completes his testimony, the former may be examined first by the prosecutor, and then by defense counsel, and then by the injured party or his/her legal representative and counsel, codefendant and his counsel, and expert witnesses.

(5) The injured party, legal representative and defense counsel, and expert witnesses may directly examine the defendant with the approval of President of the Trial Chamber.

(6) President of the Trial Chamber shall prohibit any question or answer to the question asked if such question is precluded, (Article 90 paragraph 1) or is not related to the subject matter of the indictment. It will be deemed that a question is related to the subject matter of the indictment if it verifies the veracity of a statement. Parties may request that the Trial Chamber rules on the prohibition.

(7) President of the Trial Chamber may at any time ask questions that make the answer to the question, asked by one of the parties in the proceeding, more complete and clearer.”

Current paragraph 4 shall become paragraph 8.

## Article 84

Article 322 is deleted.

## Article 85

In Article 326, paragraph 3 is deleted.

## Article 86

In Article 327, the words: „ in the event set forth in Article 94 of this Code and in case of evidence that determines the type and measure of criminal sanctions” are amended as follows: „evidence which is the basis of a holding whether admission of guilt meets the conditions set in Article 94 of this Code evidence that determines the type and measure of criminal sanctions.”.

## Article 87

In Article 328, new paragraphs 1 and 2 are added to read:

„ (1) Evidence is examined in order as determined by President of the Trial Chamber. As a rule, first the evidence proposed by the prosecutor will be examined; thereafter evidence proposed by the defense, while evidence proposed by the chamber ex officio and at a proposal of the injured party will be examined at the end. If both parties propose the same evidence, priority in examining the evidence is with the party that was the first to propose the evidence.

(2) If the injured party that is present needs to be examined as a witness, his testimony will be taken before any other witness.”

Current paragraphs 1 through 4 shall become paragraphs 3 through 6.

## Article 88

Article 331 is hereby amended as follows:

„ (1) A witness and an Expert Witness are directly examined by the parties, President of the Trial Chamber and member of the chamber. If the parties do not agree otherwise, priority is given to the party that has proposed the witness or the expert witness, then the adversary

party, thereafter President and members of the trial chamber, followed by the injured party or his legal representative or counsel codefendants and expert witnesses. If the court directed the presentation of the evidence without proposals of the parties, the questions will be asked first by President and members of the trial chamber, then prosecutor, the defendant and his counsel, the injured party or his legal representative or counsel codefendants and expert witnesses. The party that has proposed a witness or an expert witness may ask additional questions after everyone else.

(2) The injured party, or his legal representative and counsel, as well as expert witnesses may pose questions directly with the approval of President of the Trial Chamber.

(3) President of the Trial Chamber shall prohibit any question or answer to the already asked question asked if such question is precluded, (Article 103 paragraph 1) or is not related to the subject matter. The parties may request that the chamber decides on the prohibition.

(4) President of the Trial Chamber may at any time ask questions that contribute to and make the answer to the question, asked by one of the parties in the proceeding, more complete and clearer.”

#### Article 89

In Article 333, paragraph 1, the word: „interrogation” is replaced with the following words: „taking statement from”.

#### Article 90

In Article 335, the word: „interrogation” is replaced with the following words: „ taking statement from”.

#### Article 91

In Article 337 paragraph 1, the word: „codefendants” is replaced with the word: „coindictees”.

Paragraph 2, the words: „their interrogation” are replaced with the words: „taking statements from them”.

#### Article 92

In Article 344, the words: „will make and justify a proposal regarding criminal liability of the defendant” are deleted.

#### Article 93

Article 345 the words: „criminal liability” are replaced with the words: „criminal offense”.

#### Article 94

Article 355 item 2) is deleted.

The current item 3) becomes item 2).

#### Article 95

Article 356 paragraph 1 item 7) after the words: „procedure” the comma is deleted and the word: „and” is added, after the words: „indemnification claim” the comma is replaced with a period, while the words: „as well as that the full and final judgment has to be published” are deleted.

Paragraph 2, after the words: „indicate” the following words are added: „whether the monetary fine was measured and declared in daily amounts or in certain amount and”, and after the words: „pay” a comma and the word: „as well as” are added.

After paragraph 2, paragraphs 3 through 5 are added to read:

„(3) If the indictee is sentenced to perform community labor, the judgment has to contain the type and duration of labor, and commuting this type of punishment to prison term in the event that the indictee does not perform the labor in its entirety or in part.

(4) If the indictee is ordered to surrender his driver's license, the judgment has to contain the type and duration of the punishment, and commuting this type of punishment to prison term in the event that the indictee drives a motor vehicle during the term of the punishment by surrendering his driver's license.

(5) If the indictee was sentenced to probation with a protective supervision, the judgment will include the content, duration and consequences of failure to comply with the protective supervision order.”

#### Article 96

In Article 358, paragraph 1, the words: „paragraph 2 items 1) and 3)” are replaced with the words: „paragraph 1 items 1) and 3)”.

In paragraph 2, after the words: „monetary fine,” the following words are added: „sentence to perform community labor or order to surrender the driver's license,”

In paragraph 5, the words: „paragraph 1 item 2)” are replaced with the words: „paragraph 1 item 6)”.

In paragraph 6, the words: „full and final judgment” is replaced with the following words: „directing the indictee or the convicted person to correctional facility for the duration of the sentence”.

#### Article 97

Article 360 paragraph 1 is amended as follows:

„(1) A judgment that has been published has to be recorded in writing and sent within eight days of its pronouncement, while in more complicated matters, as an exception, within the time period set by president of an immediately higher court. If the judgment is not recorded in writing and sent within the set time period, President of the Trial Chamber is required to inform in writing president of the court and president of immediately higher court of the reasons for such failure. President of the court and president of immediately higher court will take necessary measures for the judgment to be recorded in writing as soon as possible and sent out.”

#### Article 98

In Article 361, paragraph 7 the words: „and criminal liability” are deleted.

#### Article 99

In Article 367, item 4) is amended as follows:

„4) Because of decision on criminal sanctions, confiscation of proceeds of criminal offense, costs of the criminal proceedings and indemnification claims.”

#### Article 100

Article 369 item 2) is deleted.

The current items 3) do 6) shall become 2) through 5).

#### Article 101

Article 371 paragraph 1, the words: „item 5” are replaced with the words: „item 4”.

Paragraph 2 the words: „item 5)” are replaced with the words: „item 4)”.

Paragraph 3 is amended as follows:

„ (3) Decision on indemnification claim or costs of the criminal proceeding can be challenged when it is rendered incorrectly or contrary to legal provisions.”

Paragraph 4 is deleted.

#### Article 102

In Article 377, after the paragraph 4, a new paragraph 5 is added that reads:

„(5) As an exception to paragraph 1 of this Article, a trial before a second-instance court must be held if the judgment in the same criminal case has been vacated.”

#### Article 103

In Article 385 after the paragraph 1 a new paragraph 2 is added that reads:

„As an exception to provision of paragraph 1 of this Article, in the event that in the same case the judgment rendered in the first instance has already been vacated, the court of the second instance will decide in a session of its chamber or after a trial, however, it cannot vacate the appealed decision and remand the case to the court of the first instance for a new trial.”

Current paragraph 2 shall become paragraph 3.

#### Article 104

In Article 391, paragraph 3, the words: „item 2)” is replaced with the following words: „item 6)”.

#### Article 105

In Article 395, paragraph 1 is amended as follows:

„(1) Against the decision of the court of the second instance, an appeal is permitted to the court deciding in the third instance only in cases when the court of the second instance has reversed the judgment of the first instance court which frees the defendant from the complaint and found the defendant guilty.”.

#### Article 106

In Article 401, after paragraph 3, a new paragraph 4 is added to reads:

„(4) When court, deciding on an appeal against a decision that orders, vacate or extends detention, vacates the decision and remands the case of a new decision, it is required to simultaneously decides on the detention. ”.

The current paragraph 4 shall become paragraph 5.

#### Article 107

Article 405 is hereby amended as follows:

#### "Article 405

(1) Full and final judgment may be reversed without remanding the criminal procedure:

1) If in two or more judgments against the same convicted person several final sentences were imposed without application of provisions on pronouncing of an aggregate sentence for offenses committed in concurrence;

2) If, when imposing an aggregate sentence by the application of provisions on concurrence, a sentence already included in the sentence pronounced pursuant to the provisions on concurrence of criminal offences by a previous judgment or decision on sentences was taken as established;

3) If a full and final judgment imposing an aggregate sentence for several offenses is partially unenforceable due to an act of amnesty, pardon, or for other reasons;

4) if after the judgment becomes final, circumstances arise which did not exist at the time the judgment was rendered or were unknown to the court, and such circumstances would have obviously lead to a more lenient sentence.

(2) In cases referred to in 1) paragraph 1 of this Article, the court shall by a new judgment reverse the earlier judgment, or decision on sentences, in respect of the decisions on sentences and impose an aggregate sentence. The court of the first instance which imposed the most

severe sentence shall have jurisdiction for rendering a new judgment, and if the sentences are of the same type -the court pronouncing the highest level of sentence, and if the sentences are equal -the court which last pronounced the sentence.

(3) In cases referred to in 2) paragraph 1 of this Article, the court that while imposing an aggregate sentence wrongly took into account a sentence already included in some previous judgment or decision on sentences shall revise its judgment or decision on sentences.

(4) In cases referred to in 3) paragraph 1 of this Article, the court of first instance shall revise the previous judgment with regard to the sentence, and either pronounce a new sentence or determine what part of the sentence imposed by a previous judgment should be executed.

(5) In cases referred to in 4) paragraph 1 of this Article, the court of first instance shall reverse the previous judgment with regard to the sentence and pronounce a new sentence.

(6) The new judgment shall be rendered by the court at a session of the Trial Chamber upon the motion of the Public Prosecutor or the convicted person, after hearing of the adversary party.

(7) If in the case referred to in items 1) and 2) of this Article, judgments or decisions on sentences of other courts were taken into account in imposing the sentence, a certified copy of a new final judgment shall be delivered to those courts as well.”

#### Article 108

After Article 405 Article 405a is added to read:

#### „Article 405a

(1) Full and final judgment may be reversed without reopening of criminal procedure pursuant to Article 504č paragraph 3 of this Code.

(2) A petition for revision of judgment without reopening the criminal procedure is filed by Public Prosecutor within one month from the date that the condemning judgment referred to in Article 504č paragraph 3 of this Code has become full and final.

(3) The court deciding in the first instance as referred to in Article 504č paragraph 1 of this Code shall have jurisdiction for rendering a new judgment.

(4) If the court finds that conditions set in Article 504č paragraph 3 of this Code are met, the court will reduce the proclaimed sentence for at least one half.”

#### Article 109

In Article 414, after the words: „judgment” a comma and the following words are added: „as well as when a request claiming violation the convicted person’s rights in the criminal procedure, had been filed that was determined in a decision of the Constitutional Court or international court, pursuant to ratified international agreements, while the violation had been of importance for the legal and correct rendering of the judgment.”.

#### Article 110

Title above Article 415 and Articles 415 through 418 is deleted.

#### Article 111

In Article 421, the second sentence is deleted.

#### Article 112

The title above Article 428 and Articles 428 through 432 is deleted.

#### Article 113

In the title to subdivision D of Title XXVI after the words: „MAIN TRIAL” the comma is replaced with the word: „AND”, and the words: „AND THE PROCEDURE AGAINST THE MINORS” are deleted.

#### Article 114

In Article 433 paragraph 1 the words: „three years” are replaced with the words: „five years”.

Paragraphs 2 through 6 are deleted.

#### Article 115

Article 436 paragraph 1 item 2) after the words: „threatens” the words following words are added: „or that will repeat the criminal offense”.

#### Article 116

In Article 441 paragraph 1 the words: „items 1) through 3)” are replaced with the words: „items 1) and 2)”, and the words: „item 4)” are replaced with the words: „item 3)”.

Paragraph 2 the word: „indictee” is replaced with the word: „suspect”.

#### Article 117

In Article 446, paragraph 3, after the words: „penalty,” the following words are added: „penalty to surrender driver’s license, penalty to perform community labor,”

In Paragraph 10, the words: „as a prosecutor” are deleted.

#### Article 118

In Article 447m paragraph 1, the word: „indictee” is replaced with the word: „suspect”, and the word: „Indictee” is replaced with the word: „Suspect”.

In Paragraph 2, the words: „reconciliation of the parties” is replaced with the following words: „reconciliation of the private prosecutor and the suspect”, and the words: „by the parties” are replaced with the words: „by them”.

In Paragraph 4, the word: „indictee” is replaced with the word: „suspect”.

#### Article 119

In Article 450, after the words: „penalty” a comma and the words are added: „penalty to perform community labor penalty to surrender driver’s license,”

#### Article 120

In Article 451 paragraph 1 the word: „indictee” is replaced with the word: „suspect”.

In paragraph 3 the word: „monetary” is deleted.

#### Article 121

In Article 457 paragraph 1, after the words: „monetary fine,” the following words are added: „penalty to perform community labor penalty to surrender driver’s license,”

#### Article 122

Article 461 paragraph 2 is amended as follows:

„(2) If the decision on court warning contains a decision on correctional measures or confiscation of proceeds of criminal offense, it can be challenged for reasons set in Article 371 paragraph 2 of this Code.”

After the paragraph 2, a new paragraph 3 is added, which reads:

„(3) If the decision on court warning contains a decision on indemnification claims or on costs of the criminal proceedings it can be challenged for reasons set in Article 371 paragraph 3 of this Code.”

#### Article 123

In Article 462 the words: „items 1) through 4)” are replaced with the words: „items 1) through 3)”, and the words: „or its publication” are deleted.

## Article 124

The title above Title XXIXa and the Title XXIXa are amended as follows:

### „Title XXIXa

#### SPECIAL PROVISIONS ON PROCEDURE FOR CRIMINAL OFFENSES OF ORGANIZED CRIME, CORRUPTION AND OTHER EXCEPTIONALLY AGGRAVATED CRIMINAL OFFENSES

##### **1. General Provisions**

###### Article 504a

(1) Provisions of this title contain special rules of procedure related to criminal offenses of organized crime, corruption and other exceptionally severe criminal offenses.

(2) Unless otherwise provided by provisions of this title in cases referred to in paragraph 1 of this Article, other provisions of this Code shall apply *mutatis mutandis*.

(3) Organized crime referred to in paragraph 1 of this Article is commission of criminal offenses by organized criminal group or its members.

(4) The organized criminal group referred to in paragraph 3 of this Article means a group of three or more persons that exists for certain period of time and acts in concert for the purpose of committing one or more criminal offenses for which there is the penalty of imprisonment of four years or more severe punishment, for the purpose of acquiring, directly or indirectly, of financial and other benefit.

(5) Criminal offenses referred to in paragraph 1 of this Article provided they are not the result of organized criminal group activities, are the following criminal offenses: misappropriation of official position (Article 359 of the Criminal Code), illegal lobbying (Article 366 of the Criminal Code), taking a bribe (Article 367 of the Criminal Code) and bribing (Article 368 of the Criminal Code).

(6) The other exceptionally severe criminal offenses referred to in paragraph 1 of this Article provided they are not result of organized activities of a criminal group, are the following criminal offenses: murder (Article 113 of the Criminal Code), aggravated murder (Article 114 of the Criminal Code), abduction (Article 134 paragraphs 1 through 4 of the Criminal Code), robbery (Article 206 paragraph 2 of the Criminal Code), extortion (Article 214 paragraphs 3 and 4 of the Criminal Code), money forgery (Article 223 paragraphs 1 through 3 of the Criminal Code), money laundering (Article 231 paragraphs 1 through 4 of the Criminal Code), unauthorized production and illicit traffic in narcotic drugs (Article 246 paragraphs 1 and 3 of the Criminal Code), criminal offenses against constitutional order and security of the Republic of Serbia (Articles 305 through 321 of the Criminal Code), illegal production, carrying and sale of guns and explosives (Article 348 paragraph 3 of the Criminal Code), illegal border crossing and trafficking in persons (Article 350 paragraphs 2 and 3 of the Criminal Code), trade in human beings (Article 388 paragraphs 1 through 6, 8 and 9 of the Criminal Code), trade in minors for adoption (Article 389 paragraphs 1 and 2 of the Criminal Code), international terrorism (Article 391 of the Criminal Code), taking hostages (Article 392 of the Criminal Code) and terrorism financing (Article 393 of the Criminal Code).

(7) Provisions of this title related to criminal offenses referred to in paragraph 3 of this Article apply to the procedure for criminal offenses set in Articles 370 through 384 and Articles 385 and 386 of the Criminal Code, as in the procedure for aggravated offenses against international humanitarian laws and for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since January 1, 1991 in accordance with the provisions of the Statute of the International Criminal Tribunal for the Former Yugoslavia.

(8) Provisions of this title are related to criminal offenses referred to in paragraph 3 of this Article and shall also apply to the procedure for criminal offenses set in Article 322 paragraphs 3 and 4, Article 323 paragraphs 3 and 4, Article 335, Article 336 paragraphs 1, 2 and 4, Article 336b, Article 337 paragraphs 1, 3 and 4 and Article 339 of the Criminal Code, if committed in connection with criminal offenses referred to in paragraph 3 of this Article, as well as procedure for criminal offense set in Article 333 of the Criminal Code, if committed in connection with the criminal offenses set in paragraphs 3 and 7 of this Article.

#### Article 504b

Government agencies and officials that participate in the criminal procedure for criminal offenses set in Article 504a of this Code are required to act with urgency.

#### Article 504v

(1) Information on preliminary criminal proceedings and investigative proceedings for criminal offenses set in Article 504a of this Code are deemed confidential. Save for an official, the information cannot be disclosed by other participants in the procedure whom the information becomes available. A person officiating the proceeding is required to inform participants in the procedure of the requirement of confidentiality.

(2) Information on preliminary criminal proceedings and investigative proceedings related to criminal offenses set in Article 504a of this Code can be disclosed only if permitted by the respective public prosecutor or investigative judge.

#### Article 504g

(1) In the proceeding for criminal offenses set in Article 504a paragraph 3 of this Code, a chamber consisting of three judges decides in the first instance, while a chamber consisting of five judges decides in the second instance.

(2) An appeal against a judgment rendered in the first instance for criminal offenses set in Article 504a paragraph 3 of this Code, may be filed by authorized persons within 30 days as of the receipt of the judgment.

#### Article 504d

(1) In the proceeding for criminal offenses set in Article 504a paragraph 3 of this Code, no special provisions on summary proceedings (Title XXVI) and proceedings for imposition of criminal sanctions without a trial (Title XXVII) shall apply.

(2) Against a detained organizer and members of the criminal group, in the proceeding for criminal offenses set in Article 504a paragraph 3 of this Code, special commanding officer measures set forth in a special law may also apply.

#### Article 504đ

(1) If the police learn of the preparation for or commission of criminal offense set in Article 504a of this Code, it is required to inform immediately the respective Public Prosecutor thereof.

(2) Public Prosecutor may request from the police to undertake necessary measure and activities within the set time and inform him thereof.

(3) Any failure to comply with the request referred to in paragraph 2 of this Article or exceeding the time limits, the police have to specifically explain to Public Prosecutor.

(4) Statements and information collected by Public Prosecutor during the preliminary criminal proceedings may be used in evidence in the criminal proceeding, but the decision cannot be based only on them.



## **2. Measures of Criminal Prosecution Agencies for Discovering and Proving Criminal Offenses Set in Article 504a of this Code**

### *1) Supervision and Recording of Telephone and other Conversations and Communications*

#### Article 504e

(1) Investigation Judge may at a written and substantiated proposal of Public Prosecutor order supervision and recording of telephone and other communications by other technical means and optical recording of a person when there are grounds of suspicion that the person have committed a criminal offense set in Article 504a of this Code, if there is no other way to collect evidence for criminal prosecution or the collection thereof would be extremely difficult.

(2) As an exception, the measures referred to in paragraph 1 of this Article may be ordered if there are grounds of suspicion that the preparation of criminal offenses set in Article 504a of this Code is in the making, and circumstances of the case indicate that in any other way the criminal offense could not have been discovered, prevented or proved, or it would have cause great difficulties or grave danger.

(3) The measures referred to in paragraph 1 of this Article are ordered by Investigation Judge in a substantiated order. The order contains information on the person against whom it is to be applied, basis of suspicion, scope and duration of the measures. The measures can last no longer than six months, but for some important reasons they can be extended to no more than twice of three months duration. The measures may be stopped when the reasons for them stop.

#### Article 504ž

(1) The order of Investigation Judge set in Article 504e paragraph 1 of this Code is implemented by the police, Security and Information Agency, and Military Security Agency. The Police, Security and Information Agency, and Military Security Agency prepare daily reports on the implementation of the measures, and submit to Investigation Judge and Public Prosecutor at their request.

(2) Postal, telegraph and other enterprises, companies or persons registered for the transfer of information are required to enable the police, Security and Information Agency, and Military Security Agency the implementation of measures set in Article 504e paragraph 1 of this Code.

(3) Recordings referred to in Article 504e paragraph 1 of this Code based on an order of Investigation Judge may be implemented in public places and premises that are not apartments.

(4) While such measure lasts, the order of Investigation Judge and procedure of its implementation are deemed confidential.

#### Article 504z

(1) Following the completion of the measures set in Article 504e paragraph 1 of this Code, the Police, Security and Information Agency, and Military Security Agency shall submit to Investigation Judge recordings and a special report that contains: beginning and end time of the measure, information on an officer who has implemented the measure, description of technical means applied, number and identity of persons under surveillance, and assessment of appropriateness and results of the applied measure.

(2) Investigation judge may order that recordings obtained through the use of technical means in whole or in part be transcribed or described. Investigation judge shall submit to Public Prosecutor the entire material obtained through implementation of the measures set in Article 504e paragraph 1 of this Code.

(3) If Public Prosecutor does not initiate a criminal proceeding within six months from the day he reviewed the material referred to in paragraph 2 of this Article or if he declares that he

will not use the same in the proceeding or if he will not initiate a proceeding against the suspect. Investigation Judge will render a decision to destroy the collected material. Investigation Judge may inform the person against who the measures set in Article 504e paragraph 1 of this Code were implemented of his decision, if during the implementation of the measures the identity of the person was determined. The material will be destroyed under supervision of Investigation Judge. Investigation Judge will record the actions referred to in this paragraph by compiling minutes.

(4) If during the implementation of the measures set in Article 504e paragraph 1 of this Code it was acted contrary to provisions of this Code or order of Investigation Judge, court judgment cannot be based on the collected information. Provisions of Article 99 of this Code shall apply to informational and notices. Provisions of Article 178 paragraph 1, Article 273 paragraph 4, Article 337 paragraph 3 and Article 374 paragraph 4 of this Code shall respectively apply to recording made contrary to provisions Articles 504e do 504z of this Code.

(5) If by the implementation of measures set in Article 504e paragraph 1 of this Code the collected material is related to a criminal offense that has not been included in the order of Investigation Judge set in Article 504e paragraph 3 of this Code, such material can be used in criminal proceeding only if it is related to criminal offense that is one of criminal offenses provided in Article 504a of this Code.

## *2) Rendering Simulated Business Services and Rendering of Simulated Legal Services*

### Article 504i

(1) If there are grounds of suspicion of commission of a criminal offense set in Article 504a of this Code, Investigation Judge may, at the request of Public Prosecutor, approve rendering of simulated business services and rendering of simulated legal services, if otherwise it is not possible to collect evidence for criminal prosecution or the collection would be very difficult.

(2) The measure referred to in paragraph 1 of this Article may be exceptionally ordered if there are grounds of suspicion that there is preparation of some of the criminal offenses set in Article 504a of this Code, while the circumstances of the case show that otherwise the offense could not have been discovered, prevented or proved or it would have cause great difficulties or grave danger.

(3) Written and substantiated order of Investigation Judge ordering the measure referred to in paragraph 1 of this Article contains information of the person against whom the measure is launched against, legal name and description of the offense, manner, scope, place and duration of the measure.

(4) The measure referred to in paragraph 1 of this Article may last up to six months. At the substantiated proposal of Public Prosecutor, investigation judge may extend the duration of the measure for no more than three months. When ordering and extending the measure, investigation judge shall specifically assess whether the same result could have been achieved in the manner which limits personal rights to a lesser extent.

### Article 504j

(1) The measure set in Article 504i paragraph 1 of this Code is carried out by officials from police, Security Information Agency, Military Security Agency or other person who is, at a proposal of the police, Security Information Agency, Military Security Agency, designated by investigation judge. The authorized official compiles daily reports on the performance of the measures that he submits together with the collected documentation to Investigation Judge and to Public Prosecutor.

(2) After the completion of the measure set in Article 504i paragraph 1 of this Code, the police, Security Information Agency, or Military Security Agency shall submit to Investigation Judge and to Public Prosecutor a special report which contains: beginning and end time of the measure, information on an officer who has implemented the measure, description of technical means applied, number and identity of persons under surveillance, and results of the applied measure.

(3) Together with the report referred to in paragraph 2 of this Article, the police, Security Information Agency, or Military Security Agency shall submit to Public Prosecutor the entire documentation on the performed measure, video, audio and electronic data and all other evidence collected during the application of the measure.

(4) The person, who, acting at the order of Investigation Judge, renders simulated business services and enters into simulated agreements, does not commit any criminal offense, when the activity that he performs is pursuant to the Criminal Code a criminal offense.

#### Article 504k

(1) If Public Prosecutor does not initiate a criminal proceeding within six months from the day he reviewed the documentation referred to in Article 504j paragraph 3 of this Code or if he declares that he will not use the same in the proceeding or that he will not initiate a proceeding against the suspect, Investigation Judge will act in accordance with provisions of Article 504z paragraph 3 of this Code.

(2) If by the implementation of the measure set in Article 504i paragraph 1 of this Code the collected material is related to a criminal offense that has not been included in the order of Investigation Judge set in Article 504i paragraph 3 of this Code, such material can be used in criminal proceeding only if it is related to criminal offense that is one of criminal offenses provided in Article 504a of this Code.

### *3) Controlled Delivery Operation*

#### Article 504l

(1) Public Prosecutor of the Republic, or other Public Prosecutor in charge of the territory of the Republic of Serbia may approve a controlled delivery, which allows illegal and suspicious packages to leave, cross or enter into the territory of one or more countries, with the knowledge and under the supervision of the competent authorities for the purpose of collecting evidence and identification of persons involved in the commission of criminal offense.

(2) The measure referred to in paragraph 1 of this Article and the manner of implementation of the measure is implemented by the police and other government agencies appointed by Public Prosecutor of the Republic, or another Public Prosecutor in charge of the territory of the Republic of Serbia.

(3) The controlled delivery is implemented in concert with competent authorities of interested countries on the basis of mutuality and pursuant to ratified international agreement that regulate the content of this operation in more details.

(4) The measure referred to in paragraph 1 of this Article may be implemented if discovery and detention of suspects involved in the commission of commercial offenses set in Article 504a of this Code would otherwise be impossible or extremely difficult, especially in cases of illicit traffic in narcotic drugs, arms and other items resulting from the commission of criminal offenses or can be used for the commission of criminal offenses.

(5) If international agreement does not stipulate otherwise, the measure referred to in paragraph 1 of this Article shall be undertaken if the competent authorities of the countries

involved in the transit of illegal or suspicious packages give their prior consent to the following:

1) that certain illegal or suspicious packages enter and exit or cross the territory of the local country;

2) that the transit and delivery of illegal or suspicious packages will be constantly monitored by competent authorities of the country where located;

3) that activities for the purpose of criminal prosecution of all persons involved in the delivery of illegal or suspicious packages will be taken;

4) that the competent authorities of other countries will be regularly informed of the course and conclusion of a criminal procedure initiated against indictees for criminal offenses that have been subject matter of the controlled delivery.

(6) Public Prosecutor of the Republic, or another Public Prosecutor in charge of the territory of the Republic of Serbia, determines the manner of implementation of the measure referred to in paragraph 1 of this Article.

(7) After the completion of the measure referred to in paragraph 1 of this Article the competent official of the police or other government agency shall submit to Public Prosecutor of the Republic of , or another Public Prosecutor in charge of the territory of the Republic of Serbia, a report which contains: beginning and end time of the measure, information on an officer who has implemented the measure, description of technical means applied, number and identity of persons under surveillance, and results of the applied measure.

#### *4) Automated Computer Search of Personal and other Data and Related Information*

##### Article 504lj

(1) Automated computer search of personal and other data and related information and electronic processing may be implemented when there are grounds of suspicion of the commission of criminal offense set in Article 504a of this Code, if otherwise it is not possible to collect evidence for criminal prosecution or the collection would be very difficult.

(2) As an exception, the measure referred to in paragraph 1 of this Article may be ordered when there are grounds of suspicion of the preparation of some of the criminal offenses set in Article 504a of this Code, while the circumstances of the case show that otherwise the offense could not have been discovered, prevented or proved or it would have cause great difficulties or grave danger.

(3) The measure referred to in paragraph 1 of this Article consists of automated search of already stored personal and other, and directly related information and their automated comparison with the data related to criminal offenses referred to in paragraph 1 of this Article and to the suspect, in order to exclude persons for which there is no possibility that they have been connected to the criminal offense for the potential suspect.

(4) The measure referred to in paragraph 1 of this Article shall be ordered by Investigation Judge, at a proposal of Public Prosecutor. The order of Investigation Judge contains: legal name of criminal offense referred to in paragraph 1 of this Article, description of data which are necessary to be collected and forwarded, indication of the governmental authority who is required to automatically gather the requested data, which are to be submitted to Public Prosecutor and the police, scope of special evidentiary activity and its duration.

(5) The measure referred to in paragraph 1 of this Article may last no longer than six months, but for some important reasons they can be extended to no more than twice of three months duration.

(6) The measure referred to in paragraph 1 of this Article is implemented by the police, Security Information Agency, or Military Security Agency, customs authorities or other government agencies, or other legal persons that based on law have public authority.

(7) If Public Prosecutor does not initiate a criminal proceeding within six months from the day he reviewed the material gathered through implementation of the measure referred to in paragraph 3 of this Article or if he declares that he will not use the same in the proceeding or if he will not initiate a proceeding against the suspect. Investigation Judge will act in accordance with provisions of Article 504z paragraph 3 of this Code.

### **3. Special Measures of Criminal Prosecution Agencies for Discovering and Proving Criminal Offenses set in Article 504a Paragraph 3 of this Code**

#### *1) Undercover Agent*

##### Article 504m

(1) Investigation judge may, at a request of Public Prosecutor, direct the engagement of an undercover agent when there are grounds of suspicion that a criminal offense set in Article 504a paragraph 3 of this Code has been committed, or if otherwise it is not possible to collect evidence for criminal prosecution or the collection would be very difficult.

(2) As an exception, the measures referred to in paragraph 1 of this Article may be ordered if there are grounds of suspicion that the preparation of any of the criminal offenses set in Article 504a paragraph 3 of this Code is in the making, while the circumstances of the case show that the offense could otherwise not have been discovered, prevented or proved or it would have cause great difficulties or grave danger.

(3) A written and substantiated order of Investigation Judge which orders the measure referred to in paragraph 1 of this Article, contains data o persons and group against whom it is directed, description of possible criminal offenses, manner, scope, place and duration of the measure.

(4) An undercover agent under an alias or a code is appointed by Minister in charge of police, director of Security Information Agency, or director of Military Security Agency, or a person they so authorize.

(5) As a rule, an undercover agent is an authorized officer of police, Security Information Agency or Military Security Agency, and if special circumstances another trained person who, based on mutuality, can also be a foreign national.

(6) An undercover agent cannot be a person against whom there is a pending criminal procedure or who has been finally found guilty of criminal offenses prosecuted *ex officio*, or person for whom there are grounds of suspicion that he is a member of the organized criminal group.

(7) The measure referred to in paragraph 1 of this Article shall last as long as it is necessary to gather evidence, but no longer than one year. At a substantiated proposal of Public Prosecutor, investigation judge may extend the measure for no longer than another six months.

(8) During the implementation of the measure referred to in paragraph 1 of this Article, in order to protect the identity of the undercover agent, the competent authority may change information in database, as well as issue personal documents with change information in order to protect the identity of the undercover agent and implementation of the measure. The information is deemed confidential.

##### Article 504n

(1) An undercover agent may, on the basis of an order of Investigation Judge, use technical resources for recording conversations, or photo devices or audio or video recorders.

(2) During the duration of the measure, an undercover agent shall submit periodic reports to his immediate commanding officer. As an exception, the reports shall not be submitted if such submission would jeopardize the security of the undercover agent or another person.

(3) Following the completion of the measure, the commanding officer referred to in paragraph 2 of this Article is required to submit a report to Investigation Judge and to Public Prosecutor. The report contains: beginning and end time of the measure, code or alias of the undercover agent, description of applied procedures and technical means, number and identity of persons under surveillance, and results of the applied measure

(4) Together with the report referred to in paragraph 3 of this Article, also submitted to Public Prosecutor are photographs, audio and video clips, gathered documentation and all evidence collected through the application of the measure.

(5) It is prohibited and punishable for an undercover agent to lure another into committing some criminal offense.

#### Article 504nj

(1) Exceptionally, an undercover agent under the code or alias may be examined as a witness in a criminal procedure. The examination will be conducted in such a way so that the parties are not made aware of the identity of the undercover agent. The court will determine the authenticity of the undercover agent immediately before his examination on the basis of a statement of his immediate commanding officer set in Article 504n paragraph 2 of this Code. Information on identity of the undercover agent who is examined as a witness is deemed confidential. Examination of an undercover agent shall be pursuant to rules applicable to examination of protected witnesses. The undercover agent is summoned through his immediate commanding officer set in Article 504n paragraph 2 of this Code.

(2) A court decision cannot be based solely on the statement made by an undercover agent.

(3) If through application of the measure set in Article 504m paragraph 1 of this Code, certain material was gathered that is related to criminal offense that was not included in the order of Investigation Judge set in Article 504m paragraph 3 of this Code, such material can be used in criminal procedure only if it is related to the criminal offense set forth in Article 504a paragraph 3 of this Code.

#### 2) *Protected Witness*

#### Article 504o

(1) Public Prosecutor may propose to the court that together with some privileges, a member of the organized criminal group is examined as a witness, who confessed belonging to the group (hereinafter the “protected witness”), against whom there is a pending criminal procedure for the criminal offense set in Article 504a paragraph 3 of this Code, provided he completely admitted the commission of the criminal offense, and if the importance of his statement for the initiation, evidence and prevention of other criminal offenses of the organized criminal group is or more importance than the consequence of the criminal offense he has committed.

(2) Protected witness cannot be a person against whom there are grounds of suspicion that he is the organizer of the group referred to in paragraph 1 of this Article.

(3) Public Prosecutor may submit the proposal referred to in paragraph 1 of this Article before the closing of the trial.

#### Article 504p

(1) Before submitting a request, Public Prosecutor shall warn the protected witness of obligations set in Article 102 paragraph 2 and Article 106 of this Code and privileges set in Article 504t of this Code. The protected witness cannot invoke a privilege not to testify set in Article 98 of this Code and privilege to refuse to respond to certain questions as set in Article 100 of this Code.

(2) After the warning referred to in paragraph 1 of this Article, Public Prosecutor shall ask the protected witness to independently and by his own hand, within the time that cannot be more than 30 days, as detailed and as complete as possible, truthfully describe everything he knows about the subject matter of the trial based on which there is a criminal proceeding and

on other criminal offenses. An illiterate protected witness shall dictate his preliminary statement in a voice recorder.

(3) The warning referred to in paragraph 1 of this Article, answers of the protected witness and his statement that he will give his testimony on everything known to him and that he will not leave out anything, Public Prosecutor shall record in the minutes together with the testimony referred to in paragraph 2 of this Article, which will be signed also by the protected witness. The minutes will be submitted together with the proposal of Public Prosecutor set in Article 504o paragraph 1 of this Code.

#### Article 504r

(1) trial chamber of the first instance court set in Article 24 paragraph 6 of this Code shall decide on the proposal of Public Prosecutor set in Article 504o paragraph 1 of this Code during investigation and until the beginning of the trial, and during the trial the trial chamber setting in the trial. The decision shall be rendered within 30 days as of the submission of the proposal.

(2) To its session, the trial chamber shall invite Public Prosecutor, the person proposed for witness protection and his counsel. The session of the trial chamber shall not be open to public.

(3) Against the decision of the trial chamber referred to in paragraph 1 of this Article by which the proposal of Public Prosecutor is rejected, an appeal may be filed to Public Prosecutor within 48 hours as of the receipt of the decision. An immediately higher court shall decide on the appeal within three days from the submission of the appeal together with the case file of the court of first instance.

(4) If the trial chamber accepts the proposal of Public Prosecutor, it will decide to extract from the case file minutes and official notes on former statements of the protected witness that he has given as a suspect or indictee, and they cannot be used as evidence in the criminal proceeding, except in cases set in Article 504t paragraph 3 of this Code.

#### Article 504s

(1) The examination of the protected witness shall not be open to public, unless trial chamber at a proposal of Public Prosecutor and with consent of the protected witness decides otherwise.

(2) Before rendering the decision referred to in paragraph 1 of this Article, President of the Trial Chamber shall in the presence of his counsel tell the witness with a proposal of Public Prosecutor and inform him of his right to be examined without public being present. A statement of the protected witness to be examined with public present shall be entered into minutes.

#### Article 504t

(1) The protected witness who gave his statement to the court pursuant to obligations set in Article 504p of this Code, will be given the minimum sentence prescribed by the Criminal Code for the criminal offense that he had admitted to and those that during the proceeding he has learned of committing, and then such sentence will be reduced by one half, provided, however, it cannot be less than 30 days incarceration..

(2) Taking into consideration the importance of the protected witness' statement, circumstances of criminal offenses he is being charged for, his attitude before the court, former life and other important circumstances, the court may exceptionally, at a proposal of Public Prosecutor, find the protected witness guilty of crime and punish him with more lenient punishment or relieve him from penalty.

(3) If the protected witness does not act in compliance with the obligation set in Article 504p of this Code or before the full and final end of the proceeding commits a new criminal offense set in Article 504a paragraph 3 of this Code, Public Prosecutor shall continue the

criminal prosecution or shall initiate a criminal prosecution for the new criminal offense. On the basis of the statement of Public Prosecutor the court will void the decision granting the protected witness status.

(4) If during the proceeding it some earlier commission of a criminal offense by the protected witness, set forth in Article 504a paragraph 3 of this Code, is discovered, Public Prosecutor may act in accordance with provisions of Articles 504o and 504p of this Code.

(5) Except for a duty to express the truth and not to leave out anything that he knows on the subject matter of the trial, the protected witness has all the rights that based on this Code are attributable to an indictee.

#### Article 504c

(1) Public Prosecutor may propose to the court as a witness a person who has been convicted for a criminal offense set in Article 504a paragraph 3 of this Code, provided the importance of his statement for the discovery, evidence and prevention of criminal offenses set in Article 504a paragraph 3 of this Code is more important than consequences of the criminal offense for which he was convicted.

(2) The person referred to in paragraph 1 of this Article cannot be a person who was convicted as an organizer of an organized criminal group or was sentenced to prison for forty years.

(3) If the court finds that the witness referred to in paragraph 1 of this Article made his statement in compliance with obligations set in Article 504p of this Code, Public Prosecutor will following the full and final termination of the procedure ending in a conviction file a request pursuant to Article 405a of this Code.

(4) To the examination of the witness referred to in paragraph 1 of this Article provisions regarding examination of protected witness are applicable *mutatis mutandis*."

#### Article 125

In Article 505 paragraph 1 the words: „criminal offense” are replaced with the words: „illegal act that is pursuant to law set forth as criminal offense”.

After paragraph 2, a new paragraph 3 is added, which reads:

„(3) Against an indictee who still at large, in addition to the grounds set in Article 142 of this Code, a detention may be ordered if there is reasonable threat that because of mental disorders he could commit a criminal offense. Before deciding on the detention, the court will obtain an opinion of an expert witness. Following the decision on the detention, the indictee shall be placed, until the end of the end of security measure procedure, in an appropriate medical institution or a space that suits his health conditions.”

Current paragraph 3 shall become paragraph 4.

#### Article 126

In Article 506 paragraph 3 the words: „criminal offense” are replaced with the words: „illegal act that is pursuant to law set forth as criminal offense”, and the words: „of criminal offense” are deleted.

#### Article 127

In Article 511 paragraph 1 the words: „security measures of compulsory treatment of alcoholism and drug users” are replaced with the words: „a security measure of compulsory treatment of alcoholism or compulsory treatment of drug users”.

In Paragraph 2 the words: „imposed measures of compulsory treatment of alcoholism and drug users” are replaced with the words: „imposed measures of compulsory treatment of alcoholism or compulsory treatment of drug users”.

#### Article 128

In Article 517 paragraph 1, the words: „or a decision on a corrective measure” are deleted.



#### Article 129

In Article 522 paragraph 4, the word: „interrogate” are replaced with the words: „take the statement from”.

#### Article 130

In the title of Title XXXI, the words: „EXPUNGEMENT OF CONVICTION” are replaced with the word: „REHABILITATION”.

#### Article 131

Article 523 is hereby amended as follows:

„(1) When pursuant to law, the rehabilitation shall occur after the passage of certain time and under condition that the convicted person has not committed any new criminal offense (Article 98 of the Criminal Code), a decision on rehabilitation is rendered *ex officio* by the authority in charge of keeping penal records.

(2) Before rendering a decision on rehabilitation, all necessary search shall be made especially information shall be gathered regarding whether there is a pending criminal procedure against the convicted person for a new criminal offense committed before the expiration of the term prescribed for the rehabilitation.”

#### Article 132

In Article 524 paragraph 1, the words: „expungement of conviction” are replaced with the word: „rehabilitation”, and the words: „expungement of conviction has occurred” are replaced with the words: „rehabilitation occurs”.

Paragraph 2 the words: „expungement of conviction” are replaced with the word: „rehabilitation”.

Paragraph 3 the word: „court” is replaced with the following words: „chamber set in Article 24 paragraph 6 of this Code”, and the word: „interrogation” is replaced with the following words: „taking a statement from”.

#### Article 133

Article 525 the words: „in which it is decided on expungement of the suspended sentence” is replaced with the following words: „on rehabilitation”.

#### Article 134

Article 526 paragraph 1 is hereby amended as follows:

„(1) Court rehabilitation procedure (Article 99 of the Criminal Code) shall be initiated at a petition of a convicted person.”

In Paragraph 5 the word: „interrogation” is replaced with the following words: „taking a statement from”.

In paragraphs 6 and 7 the words: „expungement of conviction” are replaced with the word: „rehabilitation”.

#### Article 135

In Article 527 the words: „expunged conviction and expunged legal consequences of conviction” are replaced with the words: „conviction and legal consequences of conviction expunged in the rehabilitation procedure”.

#### Article 136

In Article 528 paragraph 4 the word: „interrogation” is replaced with the following words: „taking a statement from”.

#### Article 137

In Article 557 after the paragraph 2 new paragraphs 3 and 4 are added that read:

„ (3) A committee of the ministry in charge of judiciary shall decide on the agreement on the type and amount of damages.

(4) Composition and work of the committee referred to in paragraph 3 of this Article shall be more closely regulated by an act of the ministry in charge of judiciary.”

Current paragraph 3 shall become paragraph 5.

#### Article 138

In Article 569 paragraph 1 the words: „of such government agency” are replaced with the word: „of court”.

Paragraph 3 the word: „justice” is replaced with the following words: „in charge of judiciary”.

#### Article 139

Article 30 paragraphs 1 and 3, Article 166 paragraphs 3 and 4 and Article 219 paragraph 1 the words: „and Montenegro” in an appropriate conjugation form, are deleted.

#### Article 140

Article 32, Article 43 paragraph 2, Article 68 paragraph 3, Article 179 paragraph 2 and Article 398 paragraph 4, the words: „Supreme Court of Serbia”, in an appropriate conjugation form, are replaced with the words: „Supreme Court of Cassation”, in an appropriate conjugation form.

#### Article 141

In Article 40 item 4), Article 60 paragraph 3, title above Article 96 and Article 96 paragraph 2, Article 97, Article 98 paragraphs 2 and 3, Article 99, Article 101 paragraph 3, Article 102 paragraphs 1 and 4, Article 103 paragraphs 1 and 4, Article 105, Article 107 items 1 and 2, Article 108 paragraph 1, Article 116 paragraphs 1 and 3, Article 122, Article 123, Article 125 paragraph 2, Article 231 paragraph 1, Article 242 paragraph 4, Article 251 paragraphs 2 and 4, Article 285 paragraph 1, Article 288, Article 301 paragraph 3, Article 309 paragraph 1, Article 313 paragraph 3, Article 317 paragraphs 1 and 3, Article 326 paragraph 3, Article 328 paragraphs 3 through 5, Article 329, Article 330 paragraphs 1 and 4, Article 332, Article 333, Article 334 paragraphs 1 and 3, Article 337 paragraphs 2 and 3, Article 339, Article 361 paragraph 7 and Article 377 paragraph 3, the words: „interrogation”, „deposed” or „interrogated” in an appropriate form are replaced with the words: „examination”, „to examine”, or „examined” in an appropriate form.

In Article 117 paragraph 6, Article 174 paragraph 4, Article 177 paragraphs 1, 2 and 5, Article 179 paragraphs 1, 3, 4 and 5, Article 226 paragraph 2, Article 261, Article 316 paragraph 2, Article 337 paragraph 1 item 1), Article 338, Article 506 paragraph 3 and Article 514 paragraph 1, after the words: „interrogation”, „deposed” or „interrogated” in an appropriate form and a comma and the following words are added: „or examination”, „or to examine”, „or examined” in an appropriate form.

#### Article 142

In Article 364 paragraph 6 and in Article 365 paragraph 4 after the words: „prison from” the following words are added: „thirty to”.

#### Article 143

In Article 557 paragraph 2 the words: „to the agency designated by rules of the Republic, if it concerns a decision of a military court, Federal Ministry of Defense,” are replaced with the words: „to the ministry of justice”.

In Article 558 paragraph 1 the words: „administrative body” are replaced with the words: „ministry of justice”.

#### Article 144

If by the effective date of this law an appeal to a decision rendered in the first instance is filed, the court of the second instance will decide on the appeal in chamber composed pursuant to provisions of the Code of Criminal Procedure („Official Gazette of SRY”, No. 70/01 and 68/02 and „Official Gazette of RS”, No. 58/04, 85/05, 115/05, 49/07 and 20/09).

#### Article 145

If by the effective date of this law an appeal to a decision rendered in the second instance is filed, or if the statute of limitation has not run out for filing the appeal to the decision rendered in the second instance, the appeal procedure will be completed pursuant to provisions of the Code of Criminal Procedure („Official Gazette of SRY”, No. 70/01 and 68/02 and „Official Gazette of RS”, No. 58/04, 85/05, 115/05, 49/07 and 20/09).

In the event referred to in paragraph 1 of this Article, the appeal shall be decided by chamber composed pursuant to provisions of the Code of Criminal Procedure („Official Gazette of SRY”, No. 70/01 and 68/02 and „Official Gazette of RS”, No. 58/04, 85/05, 115/05, 49/07 and 20/09).

#### Article 146

To persons, who will have by the effective date of this law filed a motion for commutation and a motion for protection of legality of the full and final judgment, provisions of the Code of Criminal Procedure („Official Gazette of SRY”, No. 70/01 and 68/02 and „Official Gazette of RS”, No. 58/04, 85/05, 115/05, 49/07 and 20/09) shall apply.

If until the effective date of this law the term prescribed for the filing of a motion for review of a full and final judgment, and until the expiration of the term the motion is filed, the procedure based on the motion will be based on provisions the Code of Criminal Procedure („Official Gazette of SRY”, No. 70/01 and 68/02 and „Official Gazette of RS”, No. 58/04, 85/05, 115/05, 49/07 and 20/09 ).

#### Article 147

To persons, who will have by the effective date of this law acquire the protected witness status provisions of the law regulating witness protection at the time of the acquisition of the status shall apply.

#### Article 148

Until the start up of the Supreme Court of Cassation, affairs of this court provided by provisions of this law will have been handled by the Supreme Court of Serbia.

#### Article 149

As of the effective day of this law, the Code of Criminal Procedure („Official Gazette of RS“, No. 46/06, 49/07 and 122/08) shall be revoked.

#### Article 150

This law shall become effective on the eighth day of its publication in the „Official Gazette of the Republic of Serbia”.