

LAW ON ENFORCEMENT OF PENAL SANCTIONS

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PART ONE

GENERAL

Chapter One

PRINCIPAL PROVISIONS

SUBJECT OF THE LAW

Article 1

This Law governs, unless otherwise provided by other law, the procedure of enforcement of penal sanctions against adults, the rights and duties of prisoners, organisation of the Prison Administration, oversight over its work, enforcement of sanctions pronounced for corporate offences and corporate minor offences, seizure of proceeds of a crime and corporate offence and implementing detention measures.

Where a law ratifying an international agreement regulates a certain issue referred to in paragraph 1 of this Article, the provisions of such law shall apply.

The Purpose of Enforcement of Sanctions

Article 2

The purpose of enforcement of sanctions is implementation of final and enforceable court decisions, protection of society from criminal offences and isolating perpetrators of criminal offences from the society with the objective of their medical treatment, confinement and acquisition of life-skills for their independent existence after completion of sanction.

Application of this Law on the Enforcement of Foreign Courts' Decisions

Article 3

The provisions of this Law shall also apply for enforcement of sanctions pronounced by foreign courts, where so provided by the Criminal Procedure Code and international agreements.

Commencement of Enforcement of Sanctions

Article 4

Enforcement of sanctions commences after the decision ordering the sanction becomes final and there are no legal obstacles for its enforcement.

Exceptionally, where provided by law, the enforcement of a sanction may start before the decision ordering the sanction becomes final.

Stay of Enforcement and Suspension of Enforcement of Sanctions

Article 5

The enforcement of a sanction may be stayed or suspended pursuant to the provisions of this Law.

Principal Provisions on the Status of Prisoners

Article 6

Sanctions are enforced in a manner ensuring respect for the dignity of prisoners.

Any treatment subjecting a prisoner to any form of torture, abuse, and degrading or experimental treatment is forbidden and punishable.

Use of disproportionate force against a prisoner is punishable.

Article 7

A prisoner shall not be discriminated on grounds of race, colour, sex, language, religion, political or other convictions, ethnic or social origin, financial status, education, social or other personal status.

Article 8

Prisoners are entitled to protection of fundamental rights guaranteed by the Constitution, ratified international agreements, and generally accepted rules of the international law and this Law.

A prisoner's fundamental rights may be restricted only to the extent necessary for the purpose of enforcement of sanction and in procedure defined by this Law.

Article 9

Prisoners are entitled to judicial review of individual acts related to their rights and duties pursuant to the provisions of this Law.

Administrative fee shall not be charged for submissions, official actions and decisions related to the application of the provisions of this Law, unless otherwise provided by law.

Keeping of Records

Article 10

Appropriate records shall be kept of all prisoners and detainees.

The Minister in charge of judiciary shall issue specific rules on keeping of records.

Funds for Enforcement of Sanctions

Article 11

Funds for the enforcement of sanctions are provided in the budget of the Republic of Serbia.

Prisoners shall not bear the costs of enforcement, unless otherwise provided by law.

CHAPTER TWO

PRISON ADMINISTRATION

I. PURVIEW OF THE PRISON ADMINISTRATION

Article 12

(1) The Administration for the Enforcement of Penal Sanctions (hereinafter the Prison Administration) shall organise, implement and supervise the enforcement of imprisonment, juvenile prison, community work sanction, suspended sentence with protective supervision, security measures of mandatory psychiatric treatment and custody in a medical institution, mandatory drug and alcohol addiction treatment and rehabilitation in a correctional institution (hereinafter penal sanctions).

The Prison Administration is an administrative authority within the Ministry of Justice of the Republic of Serbia.

The Prison Administration keeps single records of all prisoners.

The Prison Administration shall undertake measures aimed at permanent professional education and advanced training of staff.

The Prison Administration shall establish co-operation with relevant institutions, associations and organisations engaged in issues of enforcement of penal sanctions.

II. ORGANISATION OF THE PRISON ADMINISTRATION

1. Penal Institutions

Categories of Penal Institutions

Article 13

The Prison Administration includes the following penal institutions:

- 1) Penal-correctional facility and district prison - for enforcement of prison sentence;
- 2) Women's penal-correctional facility - for women sentenced to imprisonment and juvenile prison;
- 3) Juvenile penal-correctional facility - for enforcement of juvenile detention;
- 4) The Special Prison Hospital – for medical treatment of convicted and detained persons, enforcement of the security measure of compulsory psychiatric treatment and confinement in a medical institution, compulsory treatment of alcoholics and drug addicts;
- 5) Correctional facility - for the enforcement of rehabilitation measures.
- 6) Centre for training of Prison Administration staff.

Types of Penal Institutions

Article 14

Based on the level of security and treatment of prisoners, penal institutions may be open, semi-open, closed and institutions with special security.

In open institutions there is no protection against escape.

In semi-open institutions, a security service is the primary safeguard against escape.

In closed institutions, in addition to a security service, there are other forms of preventing escape.

Institutions with special security have special equipment for the prevention of escape and special attention is afforded to treatment of prisoners.

Article 15

Women's penal and correctional facilities, district prison and correctional and rehabilitation facilities are institutions of semi-open type.

The Special Prison Hospital and juvenile penal-correctional institution are closed institutions.

Only penal and correctional facilities may be closed institutions with special security.

Wards within Penal Institutions

Article 16

Penal institutions may have open, semi-open and closed wards.

Establishing of Penal Institutions

Article 17

A penal institution is established by an act of the Government of Serbia.

The act on the establishment of an institution determines the category, type and seat of the institution.

The Republic of Serbia Government shall establish by decision an enterprise for training and employment of prisoners and juveniles.

2. Services within Penal Institutions

Types of Services

Article 18

Penal institutions may have the following services:

- 1) Treatment service,
- 2) Guard service,
- 3) Training and labour service,

- 4) Medical service,
- 5) General affairs service.

Two or more institutions may have common services.

Guard service is a single formation within the Prison Administration.

A penal institution shall have a separate room for isolation of sick prisoners.

A women's institution must have special equipment for treatment, pregnant women, women at childbirth and female illness.

Treatment Service

Article 19

Treatment service uses methods and procedures, which are aimed at deterring prisoners from future commission of criminal offences.

Treatment service co-ordinates the work of other actors in the process of rehabilitation.

Guard Service

Article 20

Guard service ensures safety of persons and property in a penal institution, escorts convicted and untried prisoners and performs other tasks determined by law.

Guards' service escorts convicted and detained persons in official vehicles equipped with light and sound signalling devices, and with required ventilation and lighting.

Article 21

Guard service is armed and uniformed.

Members of the guards' service may upon an order of the Head of Administration or the Head of the Penal Institution work in civilian clothes.

Members of the guards' service have official IDs, and their form and content are defined by the minister in charge of the judiciary.

Training and Labour Service

Article 22

Training and labour service trains prisoners for work, organises their work and performs other tasks determined by law.

Prisoners may receive training and work within or outside penal institutions.

Medical Service

Article 23

Medical service provides health care and treatment for prisoners and controls hygiene and the quality of food and water.

Medical service shall have at least one medical doctor and one medical orderly, and must have at disposal the services of a psychiatrist.

When medical treatment is organised within the institution, the institution shall have a doctor and medical staff of appropriate qualifications and equipped with required hospital premises, medical material, equipment, devices and medication.

A medical officer examining and treating a prisoner shall be guaranteed full professional independence, in accordance with the law and code of ethics.

General Affairs Service

Article 24

General affairs service carries out legal, administrative, accounting, financial, record keeping and other general affairs for the penal institution and also provides legal aid to convicted and detained persons.

3. Act on House Rules

Article 25

An act on house rules of the penal institution regulates the living and working conditions of prisoners within the institution.

The act on House Rules is passed by the minister in charge of the judiciary.

4. Management of the Prison Administration

Head of Prison Administration

Article 26

The Head of Prison Administration manages the work of the Prison Administration.

The Government of Serbia appoints the Head of Prison Administration for a five-year term of office following the proposal of the minister in charge of the judiciary.

The Head of Prison Administration represents the Prison Administration and is responsible for proper and lawful enforcement of penal sanctions within the Republic of Serbia.

A person with university education and minimum seven years of experience in sentence enforcement tasks or in the judiciary after graduation may be appointed as head of Prison Administration

Prison Governor

Article 27

A penal institution is managed by a governor.

The minister in charge of the judiciary appoints the governor at the reasoned proposal of the head of the Prison Administration for a term of five years.

The governor represents the penal institution and is responsible for lawful and proper work in the institution.

The governor may have a deputy who is appointed at the reasoned proposal of the head of the Prison Administration, by the minister in charge of the judiciary to a term of five years.

A person with university education and minimum five years experience after graduation in enforcement of sanctions or in the judiciary may be appointed governor or deputy governor.

Head of Service

Article 28

Head of Service manages the work of a service.

The minister in charge of the judiciary assigns the head of the Service at the reasoned proposal of the governor and with the agreement of the Head of the Prison Administration.

A person with university degree and necessary work experience for the relevant service may be assigned to the post of head of Service.

III. TRANSPARENCY

Article 29

The work of the Prison Administration is transparent.

Minister in charge of the judiciary and the Head of prison Administration, directly or through the governor, inform the public about the enforcement of sanctions provided it does not represent violation of a state or official secret or a threat to the security or order within the relevant penal institution.

The minister in charge of the judiciary shall issue specific regulations on the official secret.

Article 30

The Head of Prison Administration allows individual and group visits to penal institutions.

Attention shall in particular be given to enabling visits of the representatives of domestic and international institutions and associations for human rights, the representatives of the media, criminal researchers and students of relevant universities.

The Head of Prison Administration may allow a person visiting an institution to have a conversation with a prisoner with or without an authorised officer being present.

PART TWO

ENFORCEMENT OF PENAL SANCTIONS

Chapter Three

IMPRISONMENT

I. GENERAL PROVISIONS

Article 31

The purpose of imprisonment is for a prisoner to adopt socially acceptable values during serving of sentence, through a system of modern correctional measures, aimed at easier reintegration into society after release in order not to commit offences in the future.

Article 32

The treatment of prisoners should be suited to their character and purpose of correctional programme.

Prisoners are classified into various categories for the purpose of implementing correctional programmes.

Article 33

The purpose of the programme is for prisoners to develop individual responsibility and self-initiative to participate in the correctional programme.

No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.

Prisoners take part in maintaining order and discipline and also in rehabilitation, cultural and other activities, under the control of the governor.

Article 34

Prisoners serve, as a rule, sentences together.

Where necessary due to the health condition of a prisoner or where provided by this Law, it may be provided that a prisoner is held separately from other prisoners.

Male and female prisoners are held separately.

Article 35

In order to encourage prisoners in their efforts to re-integrate into the society, a prisoner who can reasonably be expected to become a law-abiding citizen may be released on parole.

Article 36

Prisoners who are released on parole are given necessary assistance in order to facilitate their re-integration.

II. COMMITMENT AND ASSIGNMENT OF PRISONERS TO PENAL INSTITUTIONS

Commitment of Prisoners to Penal Institutions

Article 37

Prisoners are committed to penal institutions pursuant to the act on assignment issued by the Minister in charge of the judiciary.

Exceptionally, upon the request of a prisoner, the Head of Prison Administration may deviate from the assignment act if there are justifiable reasons to do so and change the place of enforcement of penal sentence.

Assignment of Prisoners to Penal Institutions

Article 38

As a rule, prisoners with a sentence or the remaining part of sentence not exceeding one year, after the calculation of a period of detention or other custody, are assigned to district prisons.

Prisoners with a sentence exceeding one year are, as a rule, assigned to penal-correctional institutions.

Female prisoners are always assigned to women's penal -correctional institutions.

Article 39

A prisoner who has committed an offence from negligence or a person sentenced for the first time to a term of imprisonment of up to one, or exceptionally, up to three years, is assigned to an open or seem-open correctional facility.

Other prisoners are assigned to closed penal -correctional institutions.

Re-assignment to Penal Institutions

Article 40

A prisoner assigned to a particular type of institution may be subsequently assigned to another type of institution by decision of the Head of Prison Administration.

A prisoner determined as potential threat to safety of other prisoners during personality examination, or who seriously offends against House Rule during serving of sentence or when treatment measures for such person remain unsuccessful may be subsequently transferred to a closed type institution with special security.

The minister in charge of the judiciary issues regulations on subsequent assignment.

III. PROCEDURE FOR COMMITMENT TO INSTITUTION

Actions Preceding Commitment

Article 41

Where the first-instance court is not competent to remand a prisoner to penal institution, it shall submit the enforceable decision together with information on the personality of the prisoner collected during criminal proceedings, to the competent court for remanding for enforcement of penal sanction within three days of the date such decision became final.

The competent court shall start the procedure for committing a prisoner to penal institution for serving of sentence within three days of receiving the decision.

Jurisdiction to Issue Commitment Order

Article 42

The municipal court in whose territory is the permanent or temporary residence of a prisoner at the time when the judgement became final has jurisdiction to issue a commitment order.

The same court shall retain jurisdiction in case the permanent or temporary residence of a prisoner changes subsequently.

Article 43

If the permanent or temporary residence of a prisoner are unknown, the first-instance court has jurisdiction to issue a commitment order, and where the first-instance decision is passed by a district court, the municipal court in the town of the district court's seat shall have jurisdiction.

Where a detained person is convicted, the commitment order is issued by the municipal court in whose territory is the seat of the penal institution where the person has been detained.

Commitment Order

Article 44

The competent court issues a written commitment order to a prisoner to report for serving of sentence on a particular day.

The time period between the reception of a commitment order and reporting may not be shorter than 8 days or longer than 15 days.

The competent court shall inform the penal institution about the date a prisoner is required to report and enclose the final decision containing information about the personality of a prisoner collected during criminal proceedings.

Beginning of Enforcement of Sanction

Article 45

The penal institution shall inform the competent court whether a prisoner has reported for serving of sentence.

Enforcement of sanction begins on the day when a prisoner reports for serving of sentence.

Article 46

If a prisoner who has been properly ordered fails to report to penal institution, the court shall order his/her bringing to penal institution, and if he/she is hiding or escaped the court shall order putting on the wanted list.

In such cases the beginning of serving of prison sentence shall be the day when the person is arrested.

Costs of Transportation

Article 47

The penal institution shall cover the costs of transport by means of public transport from the place of permanent or temporary residence to the seat of the institution.

The prisoner shall bear costs of bringing into the penal institution.

IV. STAY OF ENFORCEMENT

1. Stay of Enforcement upon the Request of Prisoner

Reasons for and Duration of a Stay of Enforcement

Article 48

(1) Imprisonment may be deferred if:

- 1) a prisoner suffers from serious acute disease – for the duration of illness;
- 2) a prisoner is a woman who is at least six months pregnant or has a child younger than one year - until the child turns the age of 3 at most;
- 3) due to death or illness of a spouse, child, adopted child, parent or adoptive parent of the prisoner - for three months after a stay of enforcement is granted at the longest;
- 4) if the wife of the prisoner has less than three months before giving childbirth or less than six months passed after her giving childbirth and there are no other members of the household who could assist her - for six months after a stay of enforcement is granted at the longest;
- 5) if the spouse or other member of the joint household should also start or has already started serving a sentence - for six months after a stay of enforcement is granted at the longest;
- 6) if the reason for a stay of enforcement is pressing farm or season work or work caused by some accident, and the family of a prisoner has no necessary labour force - for three months after a stay of enforcement is granted at the longest;
- 7) if a prisoner is required to finish some work which would otherwise result in significant damage - for three months after a stay of enforcement is granted at the longest;
- 8) if a prisoner needs a stay of enforcement in order to complete - for six months after a stay of enforcement is granted at the longest.
- 9) if the prisoner requires stay of enforcement to sit for an exam for which he has already registered - for at most two months from the day of deferment

The first day of a stay of enforcement shall be the day when a decision granting a stay of enforcement is issued.

Procedure for Requesting a Stay of Enforcement

Article 49

A prisoner shall submit a petition for a stay of enforcement.

The petition shall state the reasons for a stay of enforcement and enclose evidence supporting such petition, and shall also indicate the duration of a stay of enforcement being requested.

Article 50

A petition for a stay of enforcement is submitted within three days of receiving the commitment order.

Where serious illness, death of the spouse, child, adopted child, parent or adoptive parent of the prisoner occurred after the expiry of three days, the petition may be submitted until the date a prisoner is required to report for serving of sentence.

Article 51

A petition for a stay of enforcement is submitted to the president of the competent municipal court.

If no evidence is submitted with the petition, the president of the court shall order the prisoner to submit it within eight days and warn him/her that otherwise the petition will be rejected.

Article 52

The president of the municipal court shall make a decision within three days of the receipt of a petition.

The president of the municipal court shall reject an untimely and an unsubstantiated petition.

Article 53

A prisoner may file an appeal against the first-instance decision to the president of the competent district court.

An appeal is filed within three days of receiving the decision.

The president of the district court shall make a decision on the appeal within three days of its receipt.

Article 54

A petition for a stay of enforcement defers enforcement until the final decision on the request is passed.

The president of the competent municipal court who, upon rejecting a request for the second time, establishes that the right to request a stay of enforcement is abused, shall order that an appeal does not defer enforcement.

Article 55

A prisoner who has been granted a stay of enforcement due to serious acute illness shall once in three months, or more frequently if requested by the competent court, submit to the court a medical report from the relevant health institution.

Revocation and Discontinuation of Stay of Enforcement

Article 56

The president of the competent municipal court shall revoke a stay of enforcement of prison sentence if he/she subsequently establishes that the reasons for which a stay of enforcement was granted do no longer exist or that the prisoner uses a stay of enforcement contrary to its purpose.

If a pregnant woman has been granted a stay of enforcement, and the child is stillborn, the stay of enforcement shall be discontinued six months after the childbirth, and if the child died after childbirth, the stay of enforcement is discontinued six months after the death of the child.

If a stay of enforcement has been granted to the mother of a child younger than one year and the child dies, the stay of enforcement is discontinued six months after the death of the child.

Article 57

A prisoner may file an appeal against the decision on revocation or discontinuance of a stay of enforcement under the same conditions as those valid for an appeal against the decision on the petition for a stay of enforcement.

An appeal suspends enforcement of decision.

2. Stay of Enforcement due to Extraordinary Legal Remedies

Article 58

The court which adjudicates on a motion for re-trial that was filed in the favour of a prisoner may order a stay of enforcement even before the final decision allowing re-trial is passed.

The court which adjudicates on a motion for extraordinary review of a final judgement may, based on the subject of the motion, order a stay of enforcement of prison sentence.

Article 59

A stay of enforcement is always granted upon the request of the competent public prosecutor. A stay of enforcement lasts until such time as a decision is passed on an extraordinary legal remedy.

A decision granting a stay of enforcement shall cease to be valid if the public prosecutor fails to file a motion for a legal remedy within 30 days of the receipt of the decision on a stay of enforcement.

V. ADMISSION TO PRISON AND ASSIGNMENT TO WARDS

Admission

Article 60

Upon being admitted to prison a prisoner is identified, examined by a medical officer and a medical file is opened.

Upon admission to prison a prisoner is informed about his rights and duties throughout serving of sentence, in a language in official use, in accordance with the Law on Official Use of Language and Script.

If a prisoner is illiterate or deaf and incapable of speech, or does not know the language, he will be informed about his rights and duties verbally through an interpreter.

Article 61

The institution is required to enable every prisoner to notify/call his family or person designated by him immediately upon being admitted to a penal institution.

If a prisoner has underage children or other persons under his exclusive guardianship, the penal institution shall inform the relevant social service.

Article 62

The personal effects of a prisoner which under the House Rules of the institution he is not allowed to retain shall be placed in safe custody or sent to a person designated by him, and the prisoner is issued a receipt. Perishables are destroyed and a record on this is made and given to a prisoner.

The House Rules determine which belongings referred to under paragraph 1 of this Article may be retained.

Assignment within the Penal Institution

Article 63

Upon entering the institution a prisoner is sent to the admission ward.

A prisoner may stay maximum thirty days in this ward.

In the admission ward, information is collected about the personality of a prisoner, aimed at his assignment and drawing up of a correctional programme.

Assignment of prisoners is based on the type of criminal offence, length of sentence, guilt, attitude of the prisoner to the offence, prior criminal record and other criteria set out in the House Rules.

During serving of sentence it is possible to subsequently re-assign (reclassify) a prisoner to another treatment group in respect of achieving the purpose of enforcement of sanction, or change the correctional programme if necessary.

Article 64

Pregnant women, women after childbirth and nursing mothers are separated from other women.

VI. STATUS OF PRISONERS

1. Prisoners' Rights

Right to Humane Treatment

Article 65

Everyone must respect the dignity of a prisoner.

No one may endanger physical and mental health of a prisoner.

Accommodation

Article 66

A prisoner is entitled to accommodation corresponding to modern hygiene requirements, and local climate.

Prisoners shall be assigned to common rooms and dormitories based on a careful analysis of all circumstances and information recorded in the admission ward, particularly taking into account the age, personal characteristics and interests as well as other features important for positive interaction between the prisoners and elimination of risk of mutual physical or mental endangerment.

A prisoner with special need is entitled to accommodation in line with the type and degree of his needs.

Premises where Prisoners Live and Work

Article 67

Premises where prisoners live and work shall be clean, dry, ventilated, heated and sufficiently lit, both by natural and artificial light that enables reading and work with hindrance to eyesight. Dormitories must be of such size as to allow minimum eight cubic meters of space for each prisoner.

Premises must have adequate sanitary installations and other means for personal hygiene.

Every prisoner has the right to a separate bed.

Leisure Time of Prisoner

Article 68

Prisoners are entitled to spend at least two hours each day in the open air during leisure time.

A prisoner of suitable age and physique is entitled to organised physical activity during leisure time, including the right to use sports facilities together with other prisoners.

Oversight over Hygiene in the Institution

Article 69

Personal hygiene and hygiene of the premises are subject to regular control in the institutions.

Nutrition

Article 70

Every prisoner is entitled to food suitable to maintain his health and strength, in three meals a day, which may not have less than 12,500 joules.

Prisoners engaged on hard labour, ill prisoners, pregnant women or women at childbirth are entitled to nutrition prescribed by a medical officer.

A prisoner is provided with special diet taking into consideration his religious beliefs, in accordance with the possibilities of the institution.

A medical officer or other competent person shall control the quality of food before it is served and enter their finding in a proper register.

Article 71

Drinking water shall be available to every prisoner at all times.

The quality of food and water shall be regularly checked.

Clothing, Underwear and Footwear

Article 72

Every prisoner shall be provided with underwear, clothing and footwear suitable for the local climate.

If required for the work a prisoner performs, he shall be entitled to special working clothes, shoes and equipment.

Article 73

Prisoner's clothing shall in no manner be degrading or humiliating.

The Head of Prison Administration may allow a prisoner to wear his own clothing in an open penal institution or open section of the penal institution.

Petitions

Article 74

Every prisoner has the right to file petitions to competent authorities.

Foreign citizens may file petitions to the diplomatic and consular mission of their country or country protecting their interests, and prisoners whose interests are not protected by any country may file petitions to the competent authorities of the Republic of Serbia and international organisations.

Prisoners shall send and receive submissions through the penal institution.

Correspondence

Article 75

Every prisoner is entitled to unlimited correspondence at his own expense.

In closed-type institutions with special security, closed-type institutions and closed wards of an institution, the content of correspondence is supervised.

The prison governor may deny correspondence privileges to a prisoner serving a sentence in an institution specified in paragraph 2 of this Article on grounds of security and shall accordingly inform the convicted person.

The prisoner is entitled to appeal the decision of the prison governor specified in paragraph 3 of this Article.

The prisoner has the right of confidential correspondence with his defence counsel, competent organs and international organisations for protection of human rights.

Telephone Conversations

Article 76

A prisoner has the right to telephone calls in accordance with provisions of the House Rules, at his own expense.

In closed-type institutions with special security, closed-type institutions and closed wards of an institution telephone calls may be monitored for security reasons. Monitoring of telephone calls is ordered by the prison governor and is conducted by a person designated by him.

Legal Aid

Article 77

Penal institutions shall provide legal aid to every prisoner in relation to enforcement of sanction.

Visits

Article 78

Every prisoner is entitled to receive visits of the spouse, children, adopted children, parents, adoptive parents and other lineal relatives or lateral relatives to fourth degree of consanguinity:

- 1) once a week - in an open penal institution or open section of penal institution;
- 2) twice a month - in a semi-open penal institution or semi-open section of penal institution;
- 3) once a month - in a closed or special security penal institution.

The prison governor may allow a prisoner to be visited by other persons also.

Article 79

A prisoner is entitled to be visited by his attorney or an authorised person representing him, or whom he called to give a power of attorney for representation.

A visit of the authorised person may be monitored only by sight but not within hearing distance.

Article 80

Under the condition of reciprocity, foreign prisoners are entitled to visits by a diplomatic or consular representative of their country, or the country protecting their interests, and a prisoner whose interests are not protected by any country, to visits of the representative of competent authorities of the Republic of Serbia and international organisations.

Diplomatic or consular representatives shall announce their visit to the Head of Penal Institution.

The Head of Prison administration allows visits of diplomatic or consular representatives of a country with which there is no reciprocity rule and representatives of international organisations.

Article 81

A visit lasts at minimum one hour.

During solitary confinement as a result of disciplinary punishment, a prisoner is not entitled to have visits.

The time, duration and form of visits and the design of the room for visits are specified by the House Rules.

Visits in Special Premises

Article 82

Once in three months, a prisoner is entitled to spend at least three hours in special premises of the institution with the spouse, children or other close person.

The House Rules more precisely define the manner of exercising the right referred to under paragraph 1 of this Article, design of special premises and close persons.

Article 83

During solitary confinement as a result of disciplinary punishment a prisoner is not entitled to receive visits in special premises.

Receiving of Parcels

Article 84

Every prisoner is entitled to receive parcels:

- 1) once a week - in an open penal institution or open ward of penal institution;
- 2) twice a month - in a semi-open penal institution or semi-open ward of penal institution;
- 3) once a month - in a closed or special security penal institution.

Parcels are inspected in the presence of prisoners before they receive them.

The House Rules determine the allowed weight and content of parcels.

Reception of Remittances

Article 85

Prisoners are entitled to send and receive unlimited number of remittances.

The House Rules shall determine the amount of money at free disposal of a prisoner and the amount to be set aside as savings.

Labour and Labour Rights

Article 86

Prisoners who are able to work have the right and duty to work.

The purpose of such work is for prisoners to acquire, maintain and develop their skills, working habits and professional knowledge.

Article 87

Prison labour must be purposeful and may not be degrading.

Achievement of economic benefit from work may not impair the achievement of the purpose of such work.

Article 88

Type of work shall be selected according to physical and mental abilities, qualifications and preferences of a prisoner, as well as the possibilities of the penal institution.

A competent team within the penal institution shall assess prisoners' physical and mental abilities.

Article 89

Prisoners are employed inside or outside the institution.

The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions.

Penal institutions are entitled to market wages for the work of the prisoners which is carried out outside the institution.

Article 90

Upon the request of a prisoner who is a first-time offender with a sentence not exceeding six months, the Head of Prison Administration may allow him to work where he was working at the time of receiving the commitment order, if there are justifiable reasons and the criminal offence is not related to his job.

Article 91

Weekly working hours of the prisoners shall be 40 hours or exceptionally longer if provided by law.

A prisoner who attending general or vocational training shall have a reduction in working hours corresponding to the length of the training.

A prisoner may be employed for maximum two hours a day at maintaining hygiene in the institution and other regular work.

Article 92

The time spent at work in prison is not classified as years of service.

Where pursuant to general regulations the time spent at work is a requirement for acquiring professional qualification, the time spent at the same type of work during imprisonment shall be recognised.

Article 93

Prisoners are entitled to remuneration for their work, which is paid once a month.

Remuneration for work shall amount to at least 20% of the lowest wage in the Republic of Serbia, and it shall be increased by 50% for overtime work.

Article 94

The prison governor may allow a cash reward to a prisoner for special achievements.

The Head of Prison Administration shall determine the amount of remuneration for work and the amount of cash reward.

Article 95

A prisoner may freely dispose with 70% of the work remuneration or cash reward, and the rest is set aside as a savings fund.

The prison governor may allow a prisoner to use the money from the savings fund if it is necessary for the prisoner or his family.

Article 96

Prisoners are entitled to safety at work pursuant to general regulations on safety at work.

A prisoner who has become temporarily disabled for work through no fault of his own is entitled to remuneration in accordance with the general provisions.

The penal institution shall provide for the basic needs of prisoners who do not work without their own fault and have no funds of their own.

Article 97

Prisoners are entitled to daily and weekly rest and annual leave pursuant to general provisions.

Prisoners spend their annual leave in the special premises of the institution.

Prisoners are entitled to remuneration for work during their annual leave.

Article 98

Female prisoners are entitled to leave from work due to pregnancy, childbirth and maternity pursuant to general provisions.

Article 99

A prisoner shall have copyrights for intellectual property created during serving of penal sentence, pursuant to general regulations.

Article 100

Specific provisions relating to work of the prisoner and his rights thereof shall be regulated by Rules issued by the Justice Minister.

Medical Care

Article 101

Prisoners are entitled to free medical care.

Prisoners who cannot receive adequate medical treatment within the institution shall be transferred to the Special Prison Hospital or other health institution, and pregnant women to a maternity ward for childbirth.

Time spent on medical treatment shall be calculated as the time of imprisonment.

Article 102

Medical treatment of a prisoner is conducted with his agreement.

Forced feeding of prisoner is not allowed.

Exceptionally, if a prisoner seriously impairs his health or life by refusal of medical treatment or food, medical measures shall be applied as determined by a doctor, in accordance with general medical regulations.

A medical examination of a prisoner is conducted only in presence of a medical officer, unless the medical officer requests otherwise.

A prisoner has the right to be informed of the findings regarding his health and the content of his medical file, except in cases provided by general medical regulations.

A prisoner shall have access to services of a dentist.

Article 103

The doctor in the institution is required to:

- 1) examine every convict immediately upon admittance into the institution, after return from a temporary leave of absence and before release from the institution;
- 2) at admittance to the institution and subsequently, whenever appropriate, determine whether the prisoner is physically and mentally ill and his/her work capacity;
- 3) examine without delay a prisoner complaining of illness or if indications of an illness are present;
- 4) daily examine a prisoner who is ill or refuses food or water, and regularly, in intervals not longer than three months, other prisoners;
- 5) control accommodation, nutrition, hygiene, sanitary and other conditions impacting on the health of prisoners;
- 6) keep separate records of injuries of prisoners;

- 7) supervise the work of pharmacy and medical staff recording, issuing and giving the prescribed therapy to a prisoner.

The doctor in the institution shall submit to the governor in writing:

- 1) periodical reports on the health of prisoners;
- 2) a report whenever he determines that the physical or mental health of a prisoner has been impaired or compromised due to extension or the manner of serving of sentence and shall recommend measures for treatment of such person, including possible suspension of serving of sentence;
- 3) findings and recommendations on the quantity and quality of food for prisoners;
- 4) findings and recommendations for improving hygiene in the institution and of prisoners, state of sanitary facilities and conditions, heating, lighting and ventilation in premises where prisoners are confined;
- 5) findings and recommendations relating to necessary physical activity of prisoners;
- 6) The governor is required to promptly undertake measures specified in paragraph 2 of this Article that are recommended by the doctor.

Article 104

Upon the request of a prisoner, the prison governor may allow him to be examined by a specialist if the medical officer failed to suggest such examination.

The prisoner bears the costs of examination, unless prison governor decides otherwise.

Article 105

Regarding serious health impairment or life of a prisoner, or his transfer to the prison hospital or other medical institution, the penal institution shall promptly inform their spouse, children, adopted children or a person with whom the prisoner lived in a common-law marriage or other form of permanent relationship before imprisonment, if any, otherwise the institution shall inform his parents, adoptive parents, brother or sister or other relatives

Rights of Female Prisoners with Child

Article 106

Female prisoners with child may keep their child until it turn the age of one after which the parents shall agree on whether the father will have custody or another relative or person.

Where the parents can reach no agreement or their agreement is to the detriment of the child, the decision on custody shall be made by the court having jurisdiction on the basis of permanent or temporary residence of the mother at the time of conviction.

Article 107

Female prisoners with children are entitled to have assistance of the professional staff of the institution.

In absence of maternal care, a child is provided with accommodation in special premises and professional care in keeping with the standards applying for infant nurseries.

The fact that a child was born in prison must not be stated in birth certificate or other public document.

Article 108

Childbirth, accommodation and care for female prisoners and their children shall be free of charge.

Information

Article 109

Prisoners are entitled to read daily and periodical papers in their own language and have access to other media.

Prisoners may read books from the prison library or those they acquire themselves.

Education

Article 110

Prisoners are entitled to receive primary and secondary education which is organised within the institution pursuant to general provisions.

Penal institutions also organise other forms of education.

Article 111

The prison governor may allow a prisoner external/part-time education.

The costs of such education shall be borne by the prisoner.

Article 112

The certificate of education must not indicate that education was acquired during serving of sentence.

Religious Rights

Article 113

Every prisoner has the right to:

- 1) practice religious rituals;
- 2) read religious literature;
- 3) receive visits of religious representative.

If the institution contains a sufficient number of prisoners of the same religion, the prison governor shall upon their request allow a qualified representative of that religion to visit them regularly or to hold regular services or lectures at the institution.

No pressure may be exerted on a prisoner to attend a religious service or a visit of the religious representative.

Religious service is held in special and appropriate premises of the institution.

The House Rules shall more precisely define time, duration and manner of exercising the right specified under this Article.

Grievances and Complaints

Article 114

Every prisoner has the right to file a grievance to the prison governor due to violations of their rights or other irregularities affecting them.

The prison governor or a person authorised by him is required to carefully consider a complaint and make a decision thereupon within 15 days.

A prisoner who does not receive a reply to his grievance or is not satisfied with the decision has the right to file a written complaint to the Head of Prison Administration who is required to decide thereupon within 15 days from the date of receiving of the complaint.

A prisoner shall have the right to make a complaint to an authorised person who supervises the work of the institution without the staff or appointed persons being present.

The content of a complaint is a secret.

2. Special Rights of Prisoners

Article 115

A prison governor may grant the following special rights to prisoners who are well-behaved and diligent at work:

- 1) extended right to receive parcels;
- 2) extended right to receive visits;
- 3) visits without supervision in visitor's premises;
- 4) visits in special premises without other prisoners being present;
- 5) visits outside the institution;
- 6) more comfortable accommodation;
- 7) visits to town;
- 8) visits to family and relatives on weekends and public holidays;
- 9) award leave from the institution up to seven days in a year;
- 10) Extraordinary leave up to seven days;
- 11) annual leave outside the institution.

Extended right to receive visits shall include other persons who may visit a prisoner (distant relatives, friends and others).

3. Transfer of Prisoner

Article 116

Upon the request of a prisoner or recommendation of the Head of Penal Institution, and where there are justifiable reasons to do so, the Head of Prison Administration may transfer a prisoner from one institution to another.

The Head of Prison Administration may for security reasons transfer a prisoner *ex officio*.

A prisoner may appeal against the decision of the Head of Prison Administration referred to under paragraphs 1 and 2 of this Article to the minister in charge of the judiciary, within three days of the delivery of the decision.

Article 117

The penal institution where a prisoner has been transferred shall enable the prisoner to inform at once his family or another person of his own choice of transfer to another institution at the expense of the institution.

A prisoner whose request for removal has been rejected may not re-submit the request before six months have expired after the decision on the previous request was issued.

4. Suspension of Imprisonment

Suspension of Imprisonment following the Decision of Head of Administration

Article 118

Following the request of a prisoner or recommendation of the prison governor, the Head of Prison Administration may allow the suspension of imprisonment if reasons arise whereby imprisonment may be suspended.

An appeal against the decision of the Head of Prison Administration referred to under paragraph 1 of this Article may be submitted to the minister in charge of the judiciary, within three days of receiving of the decision.

Article 119

If a prisoner is committed to prison before a final decision on the request for a stay of enforcement is passed, and it is subsequently determined that the petition was founded, imprisonment shall be suspended by decision of the Head of Prison Administration and in accordance with the court decision on deferment of enforcement of sentence

In such cases the time served in imprisonment shall not be calculated in the duration of suspension.

Suspension of Imprisonment due to Extraordinary Legal Remedies

Article 120

The court which adjudicates on a motion for re-trial filed in the favour of a prisoner may suspend imprisonment even before the final decision allowing re-trial is passed.

The court which adjudicates on a motion for extraordinary review of a final judgement may, depending on the request, suspend imprisonment.

Article 121

A suspension of imprisonment is always granted upon the request of the competent public prosecutor until such time as a decision is rendered on the legal remedy.

A decision on suspension shall cease to be valid if the public prosecutor fails to file a motion for a legal remedy within thirty days of the delivery of the decision on suspension.

Revocation of Suspension and Resumption of Imprisonment

Article 122

The Head of Prison Administration shall revoke the suspension of imprisonment if he subsequently establishes that there were no reasons or that reasons ceased to exist due to which he granted suspension of imprisonment or that a prisoner uses the suspension contrary to its purpose.

Should a prisoner fail to report to the penal institution after expiry or revocation of suspension of imprisonment, the institution shall promptly inform a police authority, which shall bring the prisoner to the institution to continue serving of sentence.

Effects of Suspension of Imprisonment

Article 123

The time period of suspension shall not be calculated as time served in imprisonment.

For the period of suspension of imprisonment, prisoners are not entitled to rights provided under this Law.

Application of the Provisions on Stay of Enforcement

Article 124

All other matters related to suspension of imprisonment shall be regulated by the provisions of this Law which govern the stay of enforcement of imprisonment.

5. Death of Prisoner

Article 125

In the event of the death of a prisoner, the institution shall at once inform the spouse, children or adopted children, if any, or his parents, adoptive parents, brother, sister, other relatives or any other person previously designated by the prisoner.

The institution shall also inform the court that passed the first-instance decision and the registrar.

Article 126

The remains of a deceased prisoner and his personal belongings shall be handed over to his family or person designated by him.

If the prisoner does not have any family or the family does not accept the remains, the deceased prisoner shall be buried at the expense of the penal institution.

VII. MEASURES FOR MAINTAINING ORDER AND SECURITY

1. General Provisions

Article 127

During serving of sentence a prisoner is required to behave in accordance with law and regulations enacted on basis of law, and in accordance with orders of officials unless compliance with the order would represent an unlawful act.

In order to maintain good order and discipline in the institution only such measures may be applied against a prisoner as set forth by this Law and regulations enacted thereupon, and only to the extent necessary.

In use of measures for maintaining order and discipline, no harsher measure may be applied than necessary to achieve the purpose of its application and substance of the measure.

Measures for maintaining good order and discipline are coercive and special measures.

2. Coercive Measures

Requirements for Use of Coercive Measures

Article 128

Coercive measures against a prisoner may be applied only when necessary to prevent:

- 1) escape of the prisoner;
- 2) physical attack against another person;
- 3) injury to another person;
- 4) self-inflicting of injury;
- 5) causing material damage;
- 6) active and passive resistance of the prisoner.

A coercive measure may be applied to another person unlawfully releasing a prisoner or unlawfully entering the penal facility. Such person shall be detained until arrival of authorised law enforcement officers.

Types of Coercive Measures

Article 129

Coercive measures are:

- 1) use of physical force;
- 2) constraint;
- 3) isolation;
- 4) use of rubber truncheon;
- 5) use of water hoses;
- 6) use of chemical agents and
- 7) use of firearms.

In using coercive measures only such measure shall be applied which least endangers the life and health of the person against whom it is directed and which successfully overcomes resistance and is proportionate to the threat.

Use of Coercive Measure and Medical Examination

Article 130

A person shall be verbally and clearly warned of the intent to use coercive measure against him, unless in case of concurrent or imminent unlawful attack.

Use of water hoses and chemical agents may be ordered only by the prison governor.

A medical examination of the prisoner is mandatory after use of coercive measure against him. A further medical examination is carried out twice more in further 24 hours, in equal time intervals.

A report in writing is submitted to the prison governor on use of coercive measures and medical examination specified in paragraph 3 of this Article.

Use of Firearms

Article 131

Use of firearms is permissible only if otherwise it is not possible to:

- 1) repel a concurrent and imminent unlawful attack endangering the life of a prisoner, staff or other person in the institution;
- 2) prevent escape of a prisoner from a closed-type institution;
- 3) prevent escape during escorting of prisoner serving a prison sentence of ten or more years.

Firearms shall not be used if doing so would seriously threaten the life of another person.

If an official action is undertaken under direct management of the prison governor or head of the guards' service, firearms may be used only at their order.

The purpose of use of firearms is to disable the attacker. Lethal force when using firearms is permissible only in case of grave threat to human life.

Mandatory Reporting of Use of Firearms

Article 132

The prison governor is required to immediately submit a report on the use of firearms and the record of medical examination of the prisoner to the head of Prison Administration and the competent public prosecutor.

Procedure during Escape of Prisoner

Article 133

A member of the guards' service shall promptly undertake measures to prevent escape of a prisoner.

A member of the guards' service shall immediately notify the prison governor of every escape attempt and escape of a prisoner who is obliged to accordingly notify the Head of Prison Administration.

In the event of escape of a prisoner, the prison governor notifies the relevant internal affairs organ, orders issuing of an all points bulletin and undertakes other necessary actions for arrest of the escaped prisoner.

Serving of prison sentence is suspended for the duration of escape.

Use of Transportation and Communication Means

Article 134

Immediately following the escape of a prisoner a member of the guard service may use available transportation and communication means for the purpose of his arrest. A receipt shall be issued for the use of such means.

For the same purpose a member of the guards' service may check identity papers of persons.

Search of Apartment

Article 135

Immediately following the escape of a prisoner from a penal institution or during escorting, a member of the guard service may, without a court warrant, enter an apartment or other premises and conduct a search if necessary for the arrest of the prisoner. A receipt for entry shall be issued, and a record shall be made if a search was conducted.

The search specified in paragraph 1 of this Article may be conducted also without witnesses if their presence cannot be ensured and there is a risk due to postponement. The grounds for search without witnesses must be noted in the record.

3. Special Measures

Requirements for Application and Types of Special Measures

Article 136

When there is a present danger of escape, violent behaviour, self-inflicting of injury or disturbing of other form of order and discipline in respect of a prisoner, special measures may be undertaken as an exception.

Special measures are:

- 1) increased supervision;
- 2) seizure and temporary confiscation of objects whose possession is otherwise permitted;
- 3) removal to specially secured room without dangerous implements;
- 4) placing under increased supervision;
- 5) isolation;
- 6) testing for contagious disease or psychoactive substances.

Use of special measures is ordered by the prison governor or person authorised by him.

More than one special measure may be used against the prisoner concurrently.

Enforcement of a measure specified in paragraph 2 of this Article shall be discontinued immediately when reasons for its application have ceased.

Increased Supervision

Article 137

Increased supervision is frequent observation of the prisoner without disruption of everyday activities.

Removal to Specially Secured Room without Dangerous Implements

Article 138

Removal to special to specially secured room without dangerous implements may last at most 48 hours continuously. The measure requires prior opinion of the doctor.

The measure of increased supervision is implemented in conjunction with the measure specified in paragraph 1 of this Article.

Placing under Increased Supervision

Article 139

Placing under increased supervision may be applied only in closed-type institutions and/or closed-type section and may last maximum six months during one year.

A prisoner is entitled to appeal the decision on placing under increased supervision within three days of receiving the decision. The appeal does not stay enforcement of the decision.

The measure specified in paragraph 1 of this Article is reconsidered every three months. The decision on extension of this measure may be appealed by the prisoner within three days of receiving the decision. The appeal does not stay enforcement.

Isolation

Article 140

The measure of isolation may be pronounced by decision to a prisoner who consistently disturbs order, threatens security and represents a serious threat for other inmates, of continuous duration of maximum three months. This measure may be instituted at most twice during one calendar year.

Isolation prevents the prisoner from contact with other inmates by separating him from the communal manner of enforcement of sanction and communal activities.

Isolation is ordered following prior opinion of the doctor.

The place of isolation shall meet requirements set forth in Article 152, paragraph 1 hereof.

During isolation the prisoner shall be allowed a minimum of one-hour exercise a day in open air.

During isolation the prisoner shall be allowed to work in premises where the measure is conducted and for the duration of the measure he may use personal belongings, read newspapers and books, correspond, listen to radio and watch television.

The prisoner has the right to appeal the decision specified in paragraph 1 of this Article within three days of receiving the decision. The appeal shall not stay enforcement of the decision.

The measure specified in paragraph 1 shall be discontinued when prison services assess that they are no longer necessary.

Testing for Transmittable Disease or Psychoactive Substances

Article 141

In case of reasonable grounds to suspect presence of transmittable disease or taking of narcotics or psychoactive substances, it is possible to take blood and urine samples from a prisoner in quantity necessary for testing pursuant to medical rules, and/or for using a relevant test.

Other Provisions on Special Measures

Article 142

Removal to specially secured room without dangerous implements, placing under increased supervision, isolation and testing for contagious disease or psychoactive substances are applied under supervision of a doctor.

Article 143

The Justice Minister in co-operation with the internal affairs organ shall pass specific regulations on maintaining good order and discipline in penal institutions.

VIII DISCIPLINARY OFFENCES, MEASURES AND PROCEDURE, MATERIAL RESPONSIBILITY OF A PRISONER

1. Disciplinary Offences

Requirements for Imposition of Disciplinary Measures

Article 144

Disciplinary offences are serious and less serious breaches of the rules of order and safety, as well as breaches of other rules of conduct for prisoners, which are set out by this Law and the House Rules.

Serious offences are defined by this Law and less serious offences by the House Rules.

A disciplinary measure shall be imposed also if a prisoner commits a criminal offence attracting a fine or term of imprisonment up to one year, or a term of imprisonment up to one year and a fine.

A prisoner shall not be punished with a disciplinary measure more than once for the same disciplinary offence.

Serious Disciplinary Offences

Article 145

Serious disciplinary offences are:

- 1) escape or attempted escape from the penal institution;

- 2) incitement to rebellion or escape;
- 3) preparation of rebellion or escape;
- 4) absence without leave;
- 5) violence towards another person;
- 6) production, possession or use of a dangerous thing;
- 7) creating or bringing into prison of things suitable for attack, escape or commission of criminal offences;
- 8) blocking of access to any part of the penal institution to an officer or a person visiting or entering the institution with authorisation;
- 9) threat, damage or destruction to property of a large scale;
- 10) refusal to carry out a legal order of an authorised person, which caused or might have caused serious damage;
- 11) wilful or grossly negligent damage to another person's health;
- 12) production, possession or use of narcotics or psychoactive substances;
- 13) gross negligence of personal hygiene;
- 14) indulging in games of chance;
- 15) wilful damage to one's own health with the intention of avoiding performance of duties;
- 16) resistance to medical examination or to measures aimed at prevention of infection;
- 17) incitement of a prisoner to commit a serious disciplinary offence;
- 18) negligent performance of duties, which caused or might have caused serious damage;
- 19) instructing oneself or another about how to commit an offence based on own or another person's experience;
- 20) serious abuse of special privileges granted under Article 115, para 1 of this Law;
- 21) Repeated commission of less serious offences.

2. Disciplinary Measures

Article 146

Disciplinary measures are imposed for disciplinary offences.

Disciplinary measures are:

- 1) a reprimand,
- 2) limitation or ban on receiving of parcels for a period of three months;
- 3) withdrawal of privileges referred to under Article 115, para 1 of this Law;
- 4) limitation or ban on spending of money within the institution for a period of up to three months;
- 5) solitary confinement during leisure time or all day and night.

Solitary confinement and limitation or ban on spending of money may be imposed only for serious offences.

Ban on special privileges referred to under Article 115, para 1 of this Law and solitary confinement may be imposed cumulatively.

Article 147

A disciplinary measure, except for a reprimand, may be suspended for up to three months.

If a prisoner commits a serious disciplinary offence during the period of suspension, the suspended disciplinary measure shall be revoked, and in case of a less serious offence, the suspended disciplinary measure may be revoked.

The body which ordered the disciplinary measure shall issue a decision on the revocation referred to in para 2 of this Article.

Joinder of Disciplinary Offences

Article 148

A single disciplinary measure shall be imposed for a joinder of disciplinary offences. It shall be based on the assessment of seriousness of joined offences and other circumstances relevant for imposing a measure.

Article 149

A reprimand is pronounced if a prisoner should only be reprimanded for committing a disciplinary offence.

Disciplinary measures specified under Article 146, para 2, points 2, 3 and 4 of this Law shall be imposed as individual measures where there is no grounds for imposing solitary confinement, and a reprimand may not achieve the purpose of disciplinary measure.

Enforcement of Disciplinary Measure of Solitary Confinement

Article 150

The disciplinary measure of solitary confinement is imposed in exceptional cases and only for a serious disciplinary offence. It may not exceed fifteen days.

Solitary confinement of up to 30 days may be imposed for a joinder of disciplinary offences.

Article 151

The disciplinary measure of solitary confinement means the exclusion of a prisoner from activities done together with other prisoners during leisure time or day and night.

There is a mandatory medical examination before the enforcement of this measure.

Article 152

The cell where solitary confinement is enforced shall have minimum 4 square metres and 10 cubic metres of space. It has to be ventilated, with enough daylight and artificial lighting, heating adequate for climatic conditions, a bed and linen, table and chair.

A prisoner must have access to drinking water and toilet at any time.

During solitary confinement a prisoner is allowed to read and write and stay outside of closed premises for at least one hour a day.

Article 153

During solitary confinement, a prisoner shall be examined by a medical doctor at least once a day, and prison governor and correctional officer are obliged to visit the prisoner at least once in a week.

Findings and comments of the doctor and other authorised officers are recorded in the solitary confinement log.

Article 154

The duration of solitary confinement may not exceed six months in total, during a calendar year.

Article 155

Prison governor discontinues the measure of solitary confinement before its end, should he find that the disciplinary measure achieved its purpose.

Prison governor must discontinue the measure of solitary confinement if a medical doctor states in writing that further solitary confinement would endanger prisoner's health.

3. Disciplinary Proceedings

Competence and Initiating of Proceedings

Article 156

The Discipline Committee conducts disciplinary proceedings and takes decisions in the case of serious disciplinary offences, while prison governor or a person designated by him conducts disciplinary proceedings for less serious offences. The designated person may not be the person who initiates proceedings.

Head of the organisational unit or a person designated by him files a motion for disciplinary proceedings. In the case of serious disciplinary offences, prison governor or a person designated by him may file the motion.

The motion for disciplinary proceedings referred to in para 2 of this Article is filed within 24 hours of learning about the offence.

Head of Prison Administration, following the proposal of prison governor, shall appoint the three-member Discipline Committee referred to in para 1 of this Article.

Conditions for the Isolation of Prisoner

Article 157

From the moment of finding out about a serious disciplinary offence and during disciplinary proceedings, prison governor or a person designated by him may decide to separate the prisoner from other prisoners out of security reasons, for a period not exceeding 24 hours. The time spent in isolation is computed as the time spent under the disciplinary measure of solitary confinement.

Evidence in Disciplinary Proceedings

Article 158

A prisoner under disciplinary proceedings shall be questioned and his statements will be checked and other evidence presented.

A record shall be made of the entire course of the proceedings.

Meting out of Disciplinary Measure

Article 159

When imposing a disciplinary measure, consideration will be given to prisoner's conduct and diligence in performing duties, as well as to all other facts relevant for meting out the disciplinary measure properly.

Limitation Period

Article 160

A disciplinary measure may not be imposed, and the imposed disciplinary measure may not be enforced, if more than six months elapsed after the commission of disciplinary offence.

The Right of Prisoner to Legal Aid

Article 161

A prisoner under disciplinary proceedings is entitled to legal aid.

A prisoner must be advised about the right specified in para 1 of this Article before finding of fact.

Decision and Appeal in Disciplinary Proceedings

Article 162

Disciplinary proceedings are completed with a decision.

A prisoner may file an appeal against the decision within three days of receiving the decision, and a decision on the appeal must be made within three days.

An appeal does not stay the enforcement of decision.

Head of Prison Administration shall make a decision on an appeal.

Powers of the Minister in charge of the Judiciary

Article 163

The minister in charge of the judiciary shall more specifically define disciplinary offences, measures and procedure.

4. Liability for Damage

Article 164

A prisoner is obliged to pay damages to the institution caused intentionally or by gross negligence.

Decisions on damages not exceeding 10,000 dinars shall be made by the first-instance disciplinary body, following the recommendation of person who initiated the proceedings. Where damages exceed 10,000 dinars, the institution shall claim its right through civil proceedings.

The institution shall collect damages determined by the first-instance disciplinary body directly from the funds with which the prisoner freely disposes and if they are insufficient, from his/her savings.

IX Judicial Recourse

The Right of Prisoner to Judicial Recourse

Article 165

A prisoner is entitled to judicial recourse against a final decision limiting or violating a right set forth under this Law during serving of sentence.

Judicial recourse referred to in paragraph 1 of this Article is realised in an administrative dispute.

Article 166

Petition for Judicial Recourse

A petition for judicial recourse is filed within three days from the delivery of decision.

The court of competent jurisdiction shall decide on the petition referred to in paragraph 1 of this Article within 15 days of receiving the petition.

The petition shall stay the enforcement of decision, except in cases determined by this Law where an appeal does not stay the enforcement of decision.

X RELEASE

Release due to End of Sentence

Article 167

A prisoner shall be released from institution on the day he completed serving of sentence.

If the last day of the sentence is a Saturday, Sunday or public holiday, a prisoner shall be released the day before.

A prisoner shall be exempted from any labour at least three days prior to release.

The institution is obliged to notify the sentencing court within eight days after release of the prisoner, as well as the relevant police authority.

General Provisions on Release

Article 168

Prior to release, a prisoner is examined by a doctor and the findings are entered in the medical record.

A seriously ill person who is being released from prison and a person unable to travel due to illness shall be placed by the penal institution in the nearest adequate medical facility. The penal institution bears the costs of treatment for the first thirty days.

Article 169

On release from the institution, a prisoner shall be issued release papers.

Release papers shall include, inter alia, date of release and date when the released person has to report to the police authority.

Release papers serve a released person also as proof of identity until arrival to the destination of permanent and/or temporary residence.

Article 170

Items and objects in safekeeping of the penal institution, savings and the remaining money received during serving of sentence shall be handed over to a prisoner on release.

The penal institution shall provide underwear, clothes and footwear to a prisoner who is released and is unable to provide them himself.

A prisoner is considered released once he/she leaves the institution premises.

Article 171

The penal institution shall bear transportation costs to the place of permanent and/or temporary residence of a released person.

For a released foreign citizen, transportation costs up to the border crossing shall be covered, unless otherwise provided by other regulations.

Article 172

If a prisoner is being released from a penal institution pursuant to an act of amnesty, the penal institution is obliged to release him within 24 hours from receiving the act on amnesty at the latest, unless otherwise determined by the law on amnesty.

Where a prisoner is released based on a decision on pardon, the institution shall release him on the day it receives the decision, and not later than within 24 hours.

Early Release

Article 173

Following the recommendation of prison governor, Head of Prison Administration may release a prisoner before time, at least three months before the end of sentence, if the prisoner has served nine tenths of sentence and has not been released on parole.

The recommendation referred to in para 1 of this Article is submitted by prison governor, after obtaining the opinion of all services of the penal institution about the conduct of the prisoner.

XI POST-RELEASE ASSISTANCE

Article 174

Prior to releasing a prisoner, the penal institution shall determine whether the prisoner needs any assistance after release.

The penal institution shall inform the welfare institution which is competent on the basis of temporary or permanent residence of the released prisoner, or the appropriate organisation or association, about the need and type of assistance referred to in paragraph 1 of this Article.

CHAPTER FOUR

ENFORCEMENT OF FINES

Competencies and Procedure for Enforcement of Fines

Article 175

The decision to enforce a fine is passed *ex officio* by the court pronouncing the first instance decision.

Provisions of the Law on Enforcement Procedure shall apply in respect of competencies and procedure for enforcement of fines, unless otherwise provided under this Law.

Article 176

Enforced collection of fines shall be instituted when a prisoner fails to pay the fine within the set time period.

The costs of enforced collection of fine shall be borne by the prisoner.

The collected funds are the revenue of the budget of the Republic of Serbia.

Article 177

A fine is collected by making an inventory and selling of prisoner's movable possessions.

If that is not sufficient, prisoner's immovable things are also sold.

Relationship between a Fine, Costs of Criminal Proceedings and Property Claim of Injured Party

Article 178

If enforced collection of fine and costs of criminal proceedings are concurrently instituted, costs of criminal proceedings shall be collected first.

If due to the collection of fine, the property of a prisoner is reduced to such degree that the property claim of the injured party cannot be settled, such claim shall be settled from the collected fine but shall not exceed the amount of the fine.

Replacement of Fine with Imprisonment

Article 179

Where a fine cannot be fully collected or cannot be collected at all, the enforcement court shall accordingly inform the court that issued the first instance decision on the fine.

Replacement of a fine or part thereof with imprisonment shall be done in accordance with the provisions of the Criminal Code, and a prisoner serving imprisonment sentence instead of a fine has the same status as a person serving imprisonment for a minor offence.

Application to Enforcement of Fine Imposed for a Corporate Offence and Minor Offence

Article 180

The provisions of this Law regulating the enforcement of fines imposed for a criminal offence shall accordingly apply to the enforcement of fines imposed for corporate offences and minor offences, unless otherwise provided under a special law.

CHAPTER FIVE
ENFORCEMENT OF COMMUNITY SERVICE ORDER
Jurisdiction and Procedure for the Enforcement of Community Service

Article 181

The first instance sentencing court institutes proceedings for the enforcement of community service order before the commissioner of the special organisational unit of Prison Administration (hereinafter: the commissioner) determined according to temporary or permanent residence of a sentenced person.

Determining the Type of Community Service

Article 182

Community service is performed with an employer engaged in activities within whose framework the general purpose of criminal sanctions may be achieved.

The type of community service referred to in para 1 of this Article shall be determined by the commissioner, taking into account the qualifications, skills and health condition of a sentenced person.

In enforcing community service order, the commissioner shall in particular co-operate with the Placement Service, Social Work Centre, bodies of local self-government and internal affairs body.

Monitoring and Reporting

Article 183

The commissioner shall monitor the enforcement of community service order and shall accordingly inform the court and Prison Administration.

Article 184

The Ministry of Justice in co-operation with the Ministry of Labour shall specify regulations on the enforcement of community service order.

CHAPTER SIX
ENFORCEMENT OF REVOCATION OF DRIVER'S LICENSE

Article 185

In order to revoke a driver's license, the first instance sentencing court shall deliver the enforcement decision ordering revocation of driver's license to the police authority of competent jurisdiction pursuant to place of permanent or temporary residence of a sentenced person at the time the pronounced order becomes final.

CHAPTER SEVEN

ENFORCEMENT OF SUSPENDED SENTENCE WITH PROTECTIVE SUPERVISION

Competence for the Enforcement of Suspended Sentence with Protective Supervision

Article 186

The first instance sentencing court shall initiate a procedure for the enforcement of suspended sentence with protective supervision (hereinafter: protective supervision) before the commissioner designated according to permanent or temporary residence of a sentenced person.

Article 187

The first instance sentencing court is obliged to deliver to the commissioner the final decision with personal data on the sentenced person obtained during criminal proceedings, within three days from the day the decision becomes enforceable.

Duties and Rights of the Commissioner and Sentenced Person

Article 188

The commissioner shall, within three days from the day of receiving the decision, commence preparations for enforcement thereof and shall establish co-operation with relevant police body, medical and social welfare institutions, the employer and other institutions, organisations and associations.

The commissioner shall within fifteen days from the day of receiving the decision, prepare a programme for protective supervision and present it to the sentenced person.

The commissioner shall submit the programme referred to in para 2 of this Article to the competent court and appropriate body, institution, organisation or employer referred to in para 1 of this Article.

The sentenced person is entitled to file a complaint to the competent court regarding the programme specified in para 2 of this Article within three days of being informed about the programme.

For the duration of protective supervision the commissioner is required to collaborate with the sentenced person's family.

Article 189

A sentenced person shall comply with the programme of protective supervision.

The commissioner shall monitor and check whether the programme of protective supervision is carried out.

A sentenced person is entitled to file a complaint about the work of the commissioner to Head of Prison Administration.

Duty to Notify the Court

Article 190

The commissioner shall at least every six months notify the court ordering protective supervision of the results of enforcement of protective supervision.

If the enforcement of protective supervision does not commence within thirty days from the reception of the final decision or the sentenced person does not accept enforcement of protective supervision, the commissioner shall so notify the court ordering protective supervision.

When the commissioner finds that the purpose of protective supervision has been achieved, he/she shall notify the competent court.

Article 191

The minister in charge of the judiciary shall pass a more specific regulation on the execution of protective supervision.

CHAPTER EIGHT

ENFORCEMENT OF SECURITY MEASUREES

I. COMPULSORY PSYCHIATRIC TREATMENT AND CONFINEMENT IN MEDICAL INSTITUTION

Jurisdiction and Procedure for the Measure of Compulsory Psychiatric Treatment and Confinement in Medical Institution

Article 192

Commitment of a person to compulsory psychiatric treatment and confinement in a medical institution is ordered by the court pronouncing the measure in first instance.

If the measure referred to in paragraph 1 of this Article is ordered alongside a prison sentence, the person against whom such measure is applied shall first be remanded for enforcement of the security measure.

Article 193

The measure of compulsory psychiatric treatment and confinement in a medical institution may include only such limitations on movement as necessary for the treatment and confinement of the person against whom such measure is instituted and for the maintenance of good order and discipline.

Bringing and Escorting to Medical Institution

Article 194

If a person ordered to compulsory psychiatric treatment and confinement in a medical institution is at freedom and fails to report to the institution for enforcement of the measure, the court shall order bringing or putting on the wanted list. The order is carried out by the relevant administrative authority in charge of internal affairs on whose territory this person is located. If such person is in detention, escorting shall be conducted by sworn-in officers.

A member of medical staff shall be present during bringing and escorting of the person referred to in paragraph 1 of this Article.

Duty of Notification by the Medical Institution

Article 195

A medical institution or ward where a person is committed for treatment and confinement is obliged to at minimum one a year notify the sentencing court of the medical condition of the person against whom the measure is applied.

On completion of treatment the medical institution specified in paragraph 1 of this Article shall so notify the sentencing court.

In case of a person whose treatment is completed but the penalty has not expired, the administrative authority in charge of internal affairs on whose territory the medical institution is located shall, at the request of the court specified in paragraph 1 of this Article, escort the prisoner for enforcement of sentence, unless such person is released on probation by the court.

Supervision over Enforcement of Measure

Article 196

The lawful enforcement of the security measure of compulsory psychiatric treatment and confinement in a medical institution shall be supervised by the first instance sentencing court.

The ministry in charge of health protection shall supervise professional competence in enforcement of the security measure referred to in para 1 of this Article.

Article 197

Specific regulations on the enforcement of security measure of compulsory treatment and confinement in a medical institution shall be issued by the ministry in charge of justice in collaboration with the minister in charge of health protection.

Assistance after Release from Medical Institution

Article 198

Post release care of a person after the enforcement of security measure shall be taken over by the custody service competent pursuant to permanent or temporary residence of the person at the time the decision on security measure became final.

II. COMPULSORY OUTPATIENT PSYCHIATRIC TREATMENT

Jurisdiction and Procedure for Enforcement of Compulsory Outpatient Psychiatric Treatment

Article 199

The measure of compulsory outpatient psychiatric treatment is enforced in the medical institution determined by the sentencing court.

The sentencing court shall commit the person to whom the measure is ordered to the medical institution within eight days from the day the decision ordering the measure becomes final.

A person ordered the measure of compulsory outpatient psychiatric treatment is obliged to report to the medical institution for treatment within the time period set by the court, and not later than fifteen days from receiving the decision on commitment to treatment.

The court shall deliver a transcript of the final court decision to the medical institution.

Obligation of Notification by Medical Institution

Article 200

If the person fails to submit for treatment within the period set by the court or arbitrarily abandons treatment or if despite treatment becomes dangerous to the community to such degree that confinement in a psychiatric institution is required, the medical institution shall so notify the first instance court.

Article 201

The medical institution is obliged to report at least every six months to the first instance court on the health status of the person under treatment. The institution is also obliged to notify the court of completed treatment.

III. COMPULSORY TREATMENT OF DRUG ADDICTS AND ALCOHOLICS

Jurisdiction and Procedure for the Enforcement of Compulsory Treatment of Drug Addicts and Alcoholics

Article 202

Commitment of a person for enforcement of the measure of compulsory treatment of drug addicts and/or compulsory treatment of alcoholics is ordered by the first instance court, and if the person is in detention – by the Municipal Court in whose territory the detention facility is located.

The court shall notify the institution to which the person is being committed of the enforcement of the measure referred to in paragraph 1 of this Article.

If the person referred to in paragraph 1 of this Article fails to report to the institution for treatment or arbitrarily abandons commenced treatment, the institution shall promptly so inform the competent court, which shall order bringing or putting on the wanted list of such person.

Duty of Notification by the Institution

Article 203

The institution where the measure of compulsory treatment of drug addicts and/or compulsory treatment of alcoholics is being enforced shall at least every six months inform the competent court of the progress in enforcement thereof.

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

Commitment of the Sentenced Person to Remainder of Sentence

Article 204

Following the completion of the measure of compulsory treatment of drug addicts and/or compulsory treatment of alcoholics, the person against whom the relevant measure was applied shall be remanded for serving of remainder of sentence.

Article 205

Specific regulations on the enforcement of the security measure of compulsory treatment of drug addicts and/or compulsory treatment of alcoholics shall be issued by the minister in charge of the judiciary in collaboration with the minister in charge of health protection.

IV. BAN ON EXERCISING A PROFESSION, ACTIVITY OR DUTY

Jurisdiction and Procedure for the Enforcement of Security Measure of Ban on Exercise of Profession, Activity or Duty

Article 206

The first instance sentencing court that pronounced the security measure of ban to exercise a profession, activity or duty shall deliver the final decision to the organ, company or organisation where the sentenced person is employed, the competent organ for issuing of licenses or permits to discharge a particular profession or individual business activity, as well as to the relevant inspection authority.

The final judgement referred to under paragraph 1 of this Article shall also be delivered to the relevant administrative authority in charge of internal affairs in the place of permanent or temporary residence of the person to whom such measure is applied, for recordation in the penal records.

Article 207

When engaging in a profession, activity or duty is dependent on permit of competent authority, this measure is enforced by the revocation of permit or denial of issuance thereof, for as long as the measure lasts.

The measure referred to under paragraph 1 of this Article is enforced by the relevant inspection authority by undertaking actions to prevent the person to whom such measure is ordered from engaging in particular profession, activity or duty.

The relevant inspection authority shall inform the first instance sentencing court about the enforcement of the measure.

Change of Residence

Article 208

If the person to whom the measure is ordered changes permanent or temporary residence before the period of duration of the measure expires, the relevant internal affairs organ pursuant to former permanent or temporary residence shall accordingly inform the internal affairs organ in the place of new permanent or temporary residence of that person.

V. BAN ON DRIVING A MOTOR VEHICLE

Jurisdiction and Procedure for the Enforcement of Ban on Driving a Motor Vehicle

Article 209

The first instance sentencing court ordering the measure of ban on driving a motor vehicle shall deliver the final decision for enforcement to the relevant internal affairs organ pursuant to permanent or temporary residence of the person to whom the measure is pronounced at the time the decision ordering the measure becomes final.

The measure referred to under paragraph 1 of this Article is enforced against a holder of a foreign driving license by the relevant internal affairs organ pursuant to the place of commission of criminal offence.

Change of Residence

Article 210

The internal affairs organ which revoked a driving license, but has not issued the license, shall accordingly notify the internal affairs organ that has issued the driver's license.

If a person whose driver's license has been revoked changes the place of permanent or temporary residence, and the period of revocation has not expired, the internal affairs organ pursuant to former place of permanent or temporary residence shall promptly notify the internal affairs organ pursuant to new place of permanent or temporary residence of the person.

VI. CONFISCATION OF OBJECTS

Article 211

The measure of confiscation of objects is enforced by the first instance sentencing court.

Depending on the nature of confiscated objects, the court shall decide whether to sell them pursuant to the provisions of the Law on Enforcement Procedure, relinquish them to a government organ, institution or charitable organisation, destroy them or proceed in accordance with other legislation.

Where the law provides for mandatory destruction of confiscated objects, the court shall determine the manner and organ, organisation or institution to destroy the objects.

Funds acquired through sale of objects are revenue of the Republic of Serbia budget.

VII. EXPULSION OF FOREIGNER FROM THE COUNTRY

Article 212

The first instance sentencing court ordering the measure of expulsion of a foreigner from the country shall deliver the final decision for enforcement to the competent police authority.

The measure referred under paragraph 1 of this Article is enforced in accordance with regulations governing movement and residence of foreigners in the country.

VIII. PUBLICATION OF JUDGEMENT

Article 213

The first instance sentencing court shall deliver the final decision on publication of judgement through public media to the editor of the media for enforcement.

PART THREE

ENFORCEMENT OF SANCTIONS FOR MINOR OFFENCES

CHAPTER NINE

IMPRISONMENT

1. General Provisions

Application of the Provisions of this Law

Article 214

Imprisonment sentence which is ordered for a minor offence shall be executed pursuant to the provisions of this Law, unless otherwise provided by a special law.

Assignment of Convicts

Article 215

A convicted person shall serve sentence in the special unit of the district prison, separately from prisoners.

A female convicted person shall serve sentence in a correctional institution for women, separately from female prisoners.

Juvenile convicted persons shall be separated from prisoners of age.

2. COMMITMENT PROCEDURE FOR SERVING OF SENTENCE

Jurisdiction for Commitment

Article 216

The magistrate issuing the first instance decision shall have jurisdiction to commit the convicted person for serving of prison sentence.

The convicted person is committed to serve the prison sentence in accordance with the assignment act of the minister in charge of the judiciary.

When the magistrate issuing the first instance decision rules to enforce the sentence pursuant to place of permanent or temporary residence of the convicted person, it shall deliver the enforceable decision to the magistrate whose seat is in the place of permanent or temporary residence of the convicted person.

Committal Order

Article 217

The magistrate of competent jurisdiction shall order the convicted person in writing to report on a set date for serving of sentence.

The order shall include a notice to the convicted person that an appeal for deferment of enforcement will be rejected if proof of the grounds for deferment are not attached to the appeal at the same time.

The time period between receiving of the order and reporting may not be less than eight or longer than fifteen days.

The magistrate of competent jurisdiction notifies the penal institution of the date the convicted person should report for serving of sentence.

Commencement of Serving of Sentence

Article 218

The penal institution notifies the magistrate of competent jurisdiction whether the convicted person has reported for serving of prison sentence.

Commencement of enforcement of prison sentence is calculated from the day the convicted person has reported for serving of prison sentence.

Article 219

If the properly summoned convicted person fails to report to the penal institution, the magistrate orders his/her bringing, and if the convicted person is in hiding or a fugitive from justice, the magistrate shall order putting on the wanted list.

In cases specified in paragraph 1 of this Article, enforcement of sentence shall be calculated as of the day the convicted person is arrested and the costs of bringing shall be charged to the convicted person.

3. Stay of Enforcement of Prison Sentence

Reasons for Stay of Enforcement of Sentence

Article 220

Enforcement of prison sentence pronounced for a minor offence may be deferred on the same grounds as enforcement of prison sentence pronounced for a criminal offence.

Duration of Stay of Enforcement

Article 221

Enforcement of sentence shall be deferred to convicted woman who is six-months pregnant and a convicted mother with child under one year of age until the child reaches one year of age, and to a convicted person suffering from a serious acute illness – for the duration of the illness.

In all other cases, a stay of enforcement of sentence may not exceed 60 days.

Procedure for Stay of Enforcement

Article 222

The convicted person files a petition for stay of enforcement of sentence.

The petition shall list reasons for stay of enforcement, shall include corroborating proof and the requested duration of stay of enforcement.

Article 223

The petition for stay of enforcement is submitted within three days from the day of receiving the committal order.

If a serious acute illness or death of his/her spouse, child, adoptee, parent or adoptive parent occurs after elapse of the three-day deadline, the petition may be filed until the date the convicted person is supposed to report for serving of sentence.

Article 224

The petition for stay of enforcement is submitted to the head of the first instance magistrate.

The head of the magistrate shall issue a decision on the petition within three days of its reception.

Petitions not filed in due time, petitions filed by an unauthorised person and petitions that do not include proof shall be rejected by the head of the first instance magistrate.

Article 225

A convicted person may file an appeal against the first instance decision with the head of the second instance magistrate of competent jurisdiction.

The appeal is filed within three days from the date of receiving the first instance decision.

The head of the second instance magistrate shall decide on the appeal within three days of receiving thereof.

Article 226

A petition for stay of enforcement suspends enforcement of sentence until the decision on the appeal becomes final.

The head of the first instance magistrate whose findings are that the right to file a petition is being abused, after twice rejected petition, shall rule that the appeal does not stay enforcement of sentence.

Revocation and Termination of Stay of Enforcement

Article 227

The head of the first instance magistrate revokes stay of enforcement of sentence if he/she subsequently determines that grounds for granting stay of enforcement did not or have ceased to exist or that the convicted person is using stay of enforcement contrary to purpose for which it was granted.

If stay of enforcement is granted to a convicted pregnant woman and the child is stillborn, it shall terminate after expiry of two months following childbirth, and if the child dies after childbirth, it shall terminate with expiry of two months following the death of the child.

When stay of enforcement is granted to a convicted mother with child under one year of age, and the child dies, it shall terminate with the expiry of two months following the death of the child.

Article 228

The convicted person has the right of appeal against the decision on revocation and termination of stay of enforcement under identical conditions as set forth for the decision ruling on the petition for stay of enforcement.

The appeal shall stay enforcement of the decision.

4. Suspension of Prison Sentence Pronounced for Minor Offence

Article 229

Exceptionally, at the petition of the convicted person, the Head of Prison Administration may on justifiable grounds grant suspension of enforcement of prison sentence.

Suspension of enforcement of sentence shall not exceed ten days, and suspension granted due to illness of the convicted person shall last until restoration to health.

For the duration of suspension of enforcement of prison sentence the convicted person is not entitled to rights provided under this Law.

Article 230

Provisions of this Law governing suspension of enforcement of prison sentence for a criminal offence shall accordingly apply to suspension of enforcement of prison sentence pronounced for a minor offence.

5. Appropriate Application of Provisions on Release of Prisoners

Article 231

Provisions of this Law governing release of prisoners shall accordingly apply to persons convicted for a minor offence.

CHAPTER TEN

ENFORCEMENT OF SECURITY MEASURES PRONOUNCED

FOR A MINOR OFFENCE

Article 232

Provisions of this Law governing enforcement of security measures pronounced for a criminal offence shall accordingly apply for enforcement of security measures pronounced for a minor offence, unless otherwise provided by other law.

PART FOUR

CHAPTER ELEVEN

**ENFORCEMENT OF PROTECTIVE MEASURES PRONOUNCED
FOR COMMERCIAL OFFENCE**

***Appropriate Application of Provisions on Enforcement of
Security Measures***

Article 233

Provisions of this Law governing enforcement of security measures shall accordingly apply also to enforcement of protective measures pronounced for commercial offence, unless otherwise provided by other law.

Enforcement of Protective Measure of Public Announcement of Judgement

Article 234

When public announcement of judgement is pronounced as a protective measure, the court adjudicating in the first instance shall deliver the final decision to a daily newspaper, radio and television for publication.

The costs of publication shall be borne by the person convicted for a commercial offence.

PART FIVE

ENFORCEMENT OF OTHER MEASURES

CHAPTER TWELVE

DETENTION

Admission to Detention

Article 235

A person is remanded to detention based on a decision ordering detention.

A written order for admitting of detainee shall be delivered together with the decision on remand to the penal institution.

Provisions of the Criminal Procedure Code and this Law shall apply to treatment of detainees.

Article 236

The institution issues a chit on admittance of detainee.

The receipt shall contain, *inter alia*, the date, hour and minute of admittance.

Placement of Detainee

Article 237

A detainee shall be placed in a separate section of the penal institution, organised as a closed-type ward, separate from prisoners.

A detainee with previous convictions shall be placed separate from other detainees.

Detainees who jointly committed a criminal offence shall be placed separately.

Examination of Detainee

Article 238

Directly following admittance to an institution a detainee shall be examined by a doctor.

Medical findings are recorded in the detainee's medical file.

Status of Detainee

Article 239

A detainee is remanded in the penal institution under same conditions as a prisoner, unless otherwise provided by the Criminal Procedure Code.

Article 240

A detainee who is working is entitled to compensation and other labour rights recognised by this Law to prisoners.

Article 241

A detainee may be temporarily taken out of detention and escorted to other organs only at the order of the body conducting the proceedings.

Article 242

The penal institutions shall promptly notify the court conducting the proceedings of any transgression against the House Rules or other disciplinary offence committed by the detainee.

Use of Coercive Measures against Detainees

Article 243

Coercion against a detainee is applied pursuant to provisions of this Law regulating use of coercive measures against prisoners.

The court conducting the proceedings shall be immediately notified on the use of coercive measures.

Transfer of Detainee

Article 244

A detainee may be transferred from one penal institution to another for security reasons.

The head of Prison Administration, with agreement of the court issues the decision on transfer.

Supervision of Detention

Article 245

Implementing of the measure of detention is supervised by the president of the district court on whose territory is the seat of the penal institution where detention is being enforced.

Release of Detainee

Article 246

A detainee is released from the institution by the decision on revocation of detention and a release order issued by the court conducting the proceedings.

A detainee is released after expiry of time for which detention is ordered.

A doctor shall examine a detainee prior to release.

Death of Detainee

Article 247

In the event of death of a detainee, the penal institution immediately notifies his/her spouse, children and adoptive child, if any, otherwise the parents, adoptive parent, siblings and/or more distant relatives shall be notified.

The proceeding court, the president of the court exercising supervision and the registrar shall also be notified of the death of detainee.

Article 248

The mortal remains of the deceased detainee and his personal belongings are handed over to the detainee's family.

If the detainee has no family or the family refuses to accept the mortal remains, the remains shall be buried at the expense of the penal institution.

Other Provisions on Detention Measure

Article 249

A detainee who, pursuant to the Criminal Procedure Code and at his own request, is remanded to serve a prison sentence before the court decision becomes final, is equated in rights and duties with a convicted person.

Article 250

The minister in charge of the judiciary issues the act on House Rules on detention measures.

CHAPTER THIRTEEN

SEIZURE OF MATERIAL GAIN

Article 251

Provisions of this Law governing enforcement of fine for a criminal offence shall accordingly apply to seizure of property gain acquired through commission of a crime or commercial offence.

Funds realised through asset seizure are revenue of the Republic of Serbia Budget.

PART SIX

LABOUR RIGHTS AND OVERSIGHT OF THE WORK OF THE INSTITUTION

CHAPTER FOURTEEN

LABOUR RIGHTS

1. General Rule

Article 252

Provisions of the law governing employment relations in government bodies shall apply to staff and appointed officials in the Prison Administration, unless otherwise provided under this Law.

2. Special regulations

Powers of the Prison Governor

Article 253

The prison governor takes decisions related to labour rights, duties and responsibilities of employees of the penal institution.

Conduct of Staff and Appointed Persons of Prison Administration

Article 254

Employees and appointed officers in the Prison Administration shall always by their conduct and appearance present a good example to prisoners.

The minister in charge of the judiciary shall prescribe mandatory appearance and conduct of employees and appointed persons of the Prison Administration.

Overtime Work and Interruption of Annual Leave

Article 255

When so mandated by exigencies of service, an employee is obliged to work overtime.

The prison governor may, when exigencies of service so require, postpone or interrupt and employee's annual leave.

Secondment of Staff

Article 256

A staff member may, due to increased workload or other requirements of service, be provisionally seconded without his agreement from one penal institution to another for at most one-year.

The Head of Prison Administration shall issue the decision on secondment.

Incompatibility of Other Engagements with Work in the Administration

Article 257

Appointed officials and staff may not engage in other work that is incompatible with service in the Prison Administration.

The minister in charge of the judiciary shall stipulate engagements that are incompatible with service in the Prison Administration.

Trainee Period in the Guard Service

Article 258

A trainee in the guard service may be a person meeting, in addition to statutory requirements for employment in government authorities, also the following requirements: under twenty five years of age, completed military service, secondary education and physical and psychological ability to perform the service.

A person older than twenty-five years and under twenty-eight may be accepted as trainee in the guard service if such person has college or university education.

Article 259

Prior to acceptance of trainee in the guard service a candidate shall undergo a check-up of psychological and physical abilities.

The training shall be conducted in the penal institution or within special training for trainees.

The minister in charge of the judiciary shall issue the program for the trainee period for the guard service.

Article 260

A trainee in the guard service who arbitrarily leaves the Prison Administration or through fault of his own is expelled from training shall reimburse the cost of training to the Prison Administration.

In such cases the trainee's employment shall terminate.

Life Insurance of Staff and Appointed Officials in the Prison Administration

Article 261

The Prison Administration shall insure the lives of staff and appointed officials.

The Prison Administration shall bear costs of burial of staff member or appointed official who lose their lives in performance of or in relation to performance of duty.

The Administration shall give to the family of the person referred under paragraph 2 of this Article a one-time financial subsidy amounting to twelve monthly salaries, calculated on basis of the month when the staff member or appointed official lost his life.

Status of a Staff Member with Accelerated Pension Scheme

Article 262

A staff member with accelerated pension scheme shall undergo a medical examination once every three years and the head of the Prison Administration may, due to exigencies of service, decide on more frequent medical check-ups.

A person with accelerated pension scheme shall have his salary increased, pro rata to degree of accelerated pension scheme, by maximum of 30% in respect of statutory salary determined for a relevant salary grade.

The penal institution shall ensure to the persons referred to in para 1 of this Article conditions for maintaining good physical condition required for discharging of their duties.

Article 263

Due to exigencies of service, employment of a person with accelerated pension scheme may terminate by decision of the Minister in charge of the judiciary with entitlement to old-age pension even before meeting the general requirements for retirement by reason of age.

Article 264

A person with an accelerated pension scheme, on meeting the requirements for retirement shall be entitled to a gratuity amounting to fivefold amount of the salary received for the last month preceding retirement.

Violation of Work Obligations and Duty

Article 265

In addition to minor violation of work obligation and duty set forth by law governing employment in government bodies, a minor violation of work obligation and duty shall be deemed any action contrary to regulations setting out performance of tasks in the Prison Administration, if resulting in or that could have resulted in detrimental consequences of minor significance.

In addition to serious violation of work obligation and duty set forth by law governing employment in government bodies, a serious violation of work obligation and duty shall be deemed also:

- 1) acceptance of gifts from prisoners or their relatives;
- 2) trading and exchange of goods with prisoners;
- 3) bringing to or taking out of the penal facility banned substances on behalf of the prisoners;
- 4) conspiring with prisoners to aid their escape or impede investigation;
- 5) failure to report conspiracy of prisoners to organise riot, escape or other violation of the Act on House Rules;
- 6) irresponsible attitude towards a prisoner attempting to escape;
- 7) disclosing a state or official secret;

- 8) engaging in practices incompatible with official duty;
- 9) issuing or obeying orders that obviously endanger safety of prisoners and property;
- 10) exceeding authority in use of force;
- 11) ordering disciplinary measures without hearing the prisoner or before checking allegations expressed by prisoners in disciplinary proceedings or before prior obtaining of written medical opinion;
- 12) untimely resolving of appeals against disciplinary measures of solitary confinement or isolation.

All serious violations of work obligations and duty are punishable by termination of employment even if such violation does not result in material damages to the Prison Administration.

Disciplinary Proceedings

Article 266

Disciplinary proceeding against a staff member of the penal institution shall be conducted by a disciplinary commission appointed by the prison governor.

The disciplinary commission recommends to the prison governor pronouncement of appropriate decision.

Article 267

A complaint may be filed against a first instance disciplinary decision with the minister in charge of the judiciary within eight days from receiving of decision.

Staff Rewards

Article 268

At the recommendation of the prison governor the Head of Prison Administration issues the decision on rewarding staff members for exceptional dedication to work.

Other Provisions

Article 269

In addition to the acts provided by this Law, the Republic of Serbia Government will enact by-laws regulating titles, jobs and coefficients for calculating salaries of staff in the Prison Administration.

In addition to the acts provided by this Law, the Minister in charge of the judiciary issues acts regulating:

- 1) the organisation and job classification in the Prison Administration;
- 2) keeping records on prisoners;

- 3) uniform, insignia, dress uniform, armaments, special vehicles and other equipment of the guard service;
- 4) professional training and examinations of the staff of Prison Administration.

CHAPTER FIFTEEN

OVERSIGHT AND CONTROL OF WORK OF PRISON ADMINISTRATION

Supervision of the Work of Penal Institutions in General

Article 270

The work of the penal institutions is supervised by the Administration through authorised persons.

The Prison Administration oversees implementing of regulations and the professional work of an institution in enforcement of sanctions, and particularly: organisation and work of an institution, lawful and proper treatment of prisoners, the rehabilitation process of prisoners, organisation of work of prisoners, the state of and use of measures to ensure good order and discipline, use of disciplinary measures, work of the guard service, implementing health and hygiene measures, nutrition and clothing of prisoners and their accommodation.

Research and expert institutions and individuals may be engaged to conduct supervision of the professional aspects of work.

Rights and Duties of the Person Authorised to Monitor

Article 271

Authorised persons are entitled to talk to prisoners without the presence of penal institution staff.

The prison governor is obliged to enable an authorised person unhindered work and to make available all data necessary for carrying out of supervision.

Report on Conducted Inspection

Article 272

The authorised person shall make a report of the conducted inspection.

The authorised official specified in paragraph 1 of this Article may order measures and deadlines for elimination of noted deficiencies.

If there are grounds to suspect that a criminal offence has been committed that is prosecuted *ex officio* or a commercial offence, the authorised official specified in paragraph 1 of this Article is required to file criminal charges with the competent public prosecutor.

The report may include also a recommendation of measures for improvement of the work of the penal institution.

Article 273

The report is submitted to the prison governor, the Head of Administration and the minister in charge of the judiciary.

The prison governor is obliged to proceed pursuant to ordered measures and accordingly inform the Head of Prison Administration and the minister in charge of the judiciary.

The Right of the Prison Governor to Objection

Article 274

The prison governor may file an objection with the minister in charge of the judiciary against the ordered and recommended measures within eight days of receiving the report.

The objection shall not stay implementation of ordered measures.

The minister in charge of the judiciary may, pursuant to assertions in the objection, suspend or determine longer time frames for carrying out of the ordered measures, or order other measures aimed at rectifying the noted deficiencies.

Other Provisions Related to Supervision of the Work of a Penal Institution

Article 275

When the penal institution does not meet the statutory health and hygiene requirements or when security in the institution is threatened, the minister in charge of the judiciary may issue a decision to transfer prisoners to another penal institution.

Article 276

The professional aspect of the work of the Special Prison Hospital, psychiatric institution and medical services in penal institutions shall be supervised by the ministry in charge of health protection.

Article 277

Specific provisions on oversight over the work of an institution are issued by the minister in charge of the judiciary at the recommendation of the Head of Prison Administration.

Parliamentary Control

Article 278

For the purpose of control of the enforcement of penal sanctions provided under this Law, the National Assembly of the Republic of Serbia shall form, at the recommendation of the Judicial and Administration Committee, a five-member commission.

The Commission referred in paragraph 1 of this Article comprises persons experienced in issues related to enforcement of sentences and who are not employed in the Prison Administration.

The Commission is independent in its work and the Prison Administration shall provide the Commission with all data relevant for its work. The Commission shall have all powers conferred on the authorised person specified in Articles 270 and 271 hereof.

The Commission referred to in paragraph 1 of this Article shall report on the status of enforcement of penal sanctions regulated by this Law at least once a year and submits it to the Republic of Serbia Assembly, the Judicial and Administrative Committee and the minister in charge of the judiciary.

PART SEVEN
CHAPTER SIXTEEN
PENALTIES

Article 279

Whoever violates the ban to engage in profession, activity or duty shall be fined 10,000 dinars.

An entrepreneur shall be punished for the offence specified in paragraph 1 of this Article by a fine up to 50,000 dinars.

Article 280

A legal person enabling engagement of profession, activity or duty to a person under pronouncement of the security measure of ban on performance of profession, activity or duty shall be fined 100.000 dinars.

An entrepreneur shall be punished for the offence specified in paragraph 1 of this Article by fine up to 50.000 dinars.

For the offence specified in paragraph 1 of this Article the responsible officer of a legal person shall be fined up to 10.000 dinars.

PART EIGHT
CHAPTER SEVENTEEN
TRANSITIONAL AND FINAL PROVISIONS

Article 281

On the day this Law comes into force, the Law on Enforcement of Penal Sanctions of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 16/97 and 34/01) shall cease to apply.

Regulations provided under this Law shall be enacted within six months of coming into force of this Law.

Until enactment of regulations provided under this Law, the regulations enacted pursuant to provisions of the Law on Enforcement of Penal Sanctions ("Official Gazette of the Republic of Serbia", No. 16/97 and 34/01) shall apply, unless contrary to this Law.

Article 282

This Law shall come into force on 1 January 2006.