

## **PROVISIONAL CRIMINAL CODE OF KOSOVO\***

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\* Re-issued for technical reasons.

**List of corrections to the Provisional Criminal Code of Kosovo**

In Article 40, paragraph 2, in the second sentence, the word “work” has been added before the word “to” and before the second comma.

In Article 40, paragraph 4, in the second sentence, the word “work” has been added before the word “issued” in both places where it occurs.

In Article 51, paragraph 1, after the word “also”, the word “include” has been added.

In Article 53, paragraph 2, after the word “training,” the words “perform essential family responsibilities, receive necessary medical or rehabilitation treatment or return to the prison after performing his or her obligations,” has been added.

In Article 56, a new paragraph 3 has been added as follows: “When imposing a suspended sentence, the court may decide that the suspended sentence will be revoked if the perpetrator does not comply with the prohibition on exercising public administration or public service functions.”

In Article 193, paragraph 3, subparagraph 7, the words “step parent” have been replaced by the word “step-parent” and the word “theperson” has been replaced by the words “the person”.

In Article 193, paragraph 4, the words “1 or” has been deleted.

In Article 195, paragraph 3, subparagraph 7, the words “step parent” have been replaced by the word “step-parent”.

In Article 195, paragraph 4, the words “1 or” has been deleted.

In Article 196, paragraph 3, subparagraph 6, the words “step parent” have been replaced by the word “step-parent”.

In Article 196, paragraph 4, the words “1 or” has been deleted.

In Article 197, paragraph 4, subparagraph 6, the words “step parent” have been replaced by the word “step-parent”.

In Article 198, paragraph 5, the word “fifteen” has been replaced by the word “twenty” and the words “up to three” have been replaced by the words “up to five”.

In Article 198, paragraph 5, subparagraph 7, the words “step parent” have been replaced by the word “step-parent”.

## PROVISIONAL CRIMINAL CODE OF KOSOVO

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## GENERAL PART

### CHAPTER I: GENERAL PROVISIONS

#### Article 1

##### **PRINCIPLE OF LEGALITY**

- (1) Criminal offences, criminal sanctions and measures of mandatory treatment are defined only by law.
- (2) No criminal sanction or measure of mandatory treatment may be imposed on a person for an act, if prior to the commission of the act, the law did not define the act as a criminal offence and did not provide a criminal sanction or measure of mandatory treatment for the act.
- (3) The definition of a criminal offence shall be strictly construed and interpretation by analogy shall not be permitted. In case of ambiguity, the definition of a criminal offence shall be interpreted in favour of the person being investigated, prosecuted or convicted.

#### Article 2

##### **APPLICATION OF THE MOST FAVOURABLE LAW**

- (1) The law in effect at the time a criminal offence was committed shall be applied to the perpetrator.
- (2) In the event of a change in the law applicable to a given case prior to a final decision, the law more favourable to the perpetrator shall apply.
- (3) When a new law no longer criminalizes an act but a perpetrator has been convicted by the final judgment in accordance with the prior law, the enforcement of the criminal sanction shall not commence or, if it has commenced, shall cease.
- (4) A law, which was expressly in force only for a determined time, shall be applicable to criminal offences committed while it was in force, even if it is no longer in force. This shall not apply if the law itself expressly provides otherwise.

#### Article 3

##### **CRIMINAL SANCTIONS AND MEASURES OF MANDATORY TREATMENT**

- (1) The criminal sanctions are:
  - 1) Principal punishments;
  - 2) Alternative punishments;
  - 3) Accessory punishments; and
  - 4) Judicial admonition.

- (2) The measures of mandatory treatments are:
- 1) Mandatory psychiatric treatment of mentally incompetent perpetrators;
  - 2) Mandatory psychiatric treatment of perpetrators with diminished mental capacity;  
and
  - 3) Mandatory rehabilitation treatment of perpetrators addicted to drugs or alcohol.

Article 4

**LIMITATIONS ON THE EXECUTION OF CRIMINAL SANCTIONS AND MEASURES OF MANDATORY TREATMENT**

In the execution of a criminal sanction or a measure of mandatory treatment, certain rights of the perpetrator may be denied or restricted only to the extent that is commensurate with the nature or the content of the sanction or measure and only in a manner that provides for the respect of the human dignity of the individual, and is in compliance with international law.

Article 5

**APPLICATION OF THE GENERAL PART OF THE PRESENT CODE**

The provisions of the General Part of the present Code apply to all criminal offences defined in the laws applicable in Kosovo.

**CHAPTER II: CRIMINAL OFFENCE AND CRIMINAL LIABILITY**

Article 6

**CRIMINAL OFFENCE**

A criminal offence is an unlawful act which is defined by law as a criminal offence, the characteristics of which are defined by law and for which a criminal sanction or a measure of mandatory treatment is prescribed by the law.

Article 7

**ACT OF MINOR SIGNIFICANCE**

An act shall not constitute a criminal offence even though it has the characteristics of a criminal offence as defined by law if it is an act of minor significance. The act shall be deemed to be of minor significance when the danger thereby involved is insignificant due to the nature or gravity of the act, the absence or insignificance of harmful consequences, the circumstances in which the act was committed, the low degree of criminal liability of the perpetrator or the personal circumstances of the perpetrator.

## Article 8

**NECESSARY DEFENCE**

- (1) An act committed in necessary defence is not a criminal offence.
- (2) An act is committed in necessary defence when a person commits the act to avert an unlawful, real and imminent attack from himself, herself or another person and the nature of the act is proportionate to the degree of danger posed by the attack.
- (3) An act which is disproportionate to the degree of danger posed by an attack exceeds the limits of the necessary defence.
- (4) When the perpetrator exceeds the limits of necessary defence, the punishment may be reduced. When the perpetrator exceeds the limits by reason of strong trauma or fear caused by the attack, the punishment may be waived.

## Article 9

**EXTREME NECESSITY**

- (1) An act committed in extreme necessity shall not be considered to be a criminal offence.
- (2) An act is committed in extreme necessity when a person commits the act to avert from himself, herself or another person an imminent and unprovoked danger which could not have been averted otherwise, provided that the harm created thereby does not exceed the harm threatened.
- (3) When the perpetrator causes the danger through negligence or exceeds the limits of extreme necessity the punishment may be reduced, and when the perpetrator exceeds the limits in exceptionally mitigating circumstances, the punishment may also be waived.
- (4) There is no extreme necessity if the perpetrator was obliged to expose himself or herself to the danger.

## Article 10

**SUPERIOR ORDER**

- (1) When a criminal offence has been committed by a person pursuant to an order of a government or of a superior, whether military or civilian, the perpetrator shall not be relieved of his or her criminal liability unless:
  - 1) The person was under a legal obligation to obey orders of the government or of the superior in question;
  - 2) The person did not know that the order was unlawful; and
  - 3) The order was not manifestly unlawful.
- (2) Orders to commit genocide or other crimes against humanity are manifestly unlawful.

## Article 11

**CRIMINAL LIABILITY**

- (1) A person is criminally liable if he or she is mentally competent and has been found guilty of the commission of a criminal offence. A person is guilty of the commission of a criminal offence when he or she commits a criminal offence intentionally or negligently.
- (2) A person is not criminally liable if, at the time of the commission of a criminal offence, he or she is under the age of fourteen years.
- (3) A person is criminally liable for the negligent commission of a criminal offence only when this has been explicitly provided for by law.

## Article 12

**MENTAL INCOMPETENCE AND DIMINISHED MENTAL CAPACITY**

- (1) A person who committed a criminal offence is considered mentally incompetent if, at the time of the commission of a criminal offence, he or she suffered from a permanent or temporary mental illness, mental disorder or disturbance in mental development that affected his or her mental functioning so that such person was not able to understand or control his or her actions or omissions or to understand that he or she was committing a criminal offence.
- (2) A person who committed a criminal offence is considered to have diminished mental capacity if, at the time of the commission of a criminal offence, his or her ability to understand or control his or her actions or omissions was substantially diminished because of the conditions referred to in paragraph 1 of the present article. Such person is criminally liable but the court shall take into consideration these conditions when deciding on the duration and the type of sanction or measure of mandatory treatment it imposes.

## Article 13

**COMMITTING CRIMINAL OFFENCES IN A STATE OF INTOXICATION**

A perpetrator is criminally liable if he or she, by use of alcohol, narcotics, or by another method, renders himself or herself in such a state that the perpetrator cannot understand the significance of his or her own actions or omissions or control his or her own behaviour, if prior to bringing himself or herself to such a state, such actions or omissions were intended or if he or she is negligent in relation to the criminal offence and the law provides for criminal liability for the negligent commission of this offence.

## Article 14

**CAUSAL LINK**

A person is not criminally liable if there is no causal connection between the action or omission and the consequences or there is no possibility of the realization of the consequences.



**Article 15****INTENT**

- (1) A criminal offence may be committed with direct or eventual intent.
- (2) A person acts with direct intent when he or she is aware of his or her act and desires its commission.
- (3) A person acts with eventual intent when he or she is aware that a prohibited consequence can occur as a result of his or her act or omission and he or she accedes to its occurrence.

**Article 16****NEGLIGENCE**

- (1) A criminal offence may be committed by conscious or unconscious negligence.
- (2) A person acts with conscious negligence when he or she is aware that a prohibited consequence can occur as a result of his or her act or omission but recklessly thinks that it will not occur or that he or she will be able to prevent it from occurring.
- (3) A person acts with unconscious negligence when he or she is unaware that a prohibited consequence can occur as a result of his or her act or omission, although under the circumstances and according to his or her personal characteristics he or she ought and could have been aware of such a possibility.

**Article 17****LIABILITY FOR GRAVER CONSEQUENCES**

When the commission of a criminal offence causes consequences which exceed the intent of the perpetrator and the law has provided for a more severe punishment, the more severe punishment may be imposed if the consequence is attributable to the perpetrator's negligence.

**Article 18****MISTAKE OF FACT**

- (1) A person is not criminally liable if, at the time of committing a criminal offence, he or she is unaware of a characteristic of that act or he or she mistakenly believed that circumstances existed which, had they in fact existed, would have rendered the act permissible.
- (2) If a person's mistake is due to negligence, he or she is criminally liable for a criminal offence which has been negligently committed if the law provides for criminal liability for the negligent commission of this offence.

## Article 19

**MISTAKE OF LAW**

- (1) A perpetrator who for justifiable reasons did not know or could not have known that an act was prohibited is not criminally liable.
- (2) If the mistake was avoidable, the perpetrator is criminally liable but can be punished more leniently.
- (3) A mistake of law is avoidable if everyone, and thus also the perpetrator, could have easily known that the act was unlawful or if the perpetrator by reason of his or her profession, occupation or service was obliged to know the appropriate provision.

## Article 20

**ATTEMPT**

- (1) Whoever intentionally takes an immediate action toward the commission of an offence and the action is not completed or the elements of the intended offence are not fulfilled has attempted to commit a criminal offence.
- (2) An attempt to commit a criminal offence punishable by imprisonment of at least three years shall be punishable while with regard to other criminal offences, an attempt shall be punishable only if expressly provided for by law.
- (3) A person who attempts to commit a criminal offence shall be punished more leniently than the perpetrator, in accordance with Article 65(2) of the present Code.

## Article 21

**INAPPROPRIATE ATTEMPT**

The court may waive the punishment of a person who attempts to commit a criminal offence with inappropriate means or against an inappropriate object.

## Article 22

**VOLUNTARY ABANDONMENT**

- (1) The court may waive the punishment of a person for a punishable attempt of a criminal offence if such person voluntarily abandons the commission of a criminal offence which he or she has commenced, even though he or she is aware that according to all the circumstances he or she could continue the act or if, after the completion of such an act, he or she prevents the occurrence of the consequences.
- (2) In the case described under paragraph 1 of the present Article, the perpetrator shall be punished for those acts which constitute another separate criminal offence.

**COLLABORATION IN CRIMINAL OFFENCES**

## Article 23

**CO-PERPETRATION**

When two or more persons jointly commit a criminal offence by participating in the commission of a criminal offence or by substantially contributing to its commission in any other way, each of them shall be liable and punished as prescribed for the criminal offence.

## Article 24

**INCITEMENT**

Whoever intentionally incites another person to commit a criminal offence shall be punished as if he or she committed the criminal offence if the criminal offence was committed under his or her influence.

## Article 25

**ASSISTANCE**

(1) Whoever intentionally assists another person in the commission of a criminal offence shall be punished as provided for in Article 65(2) of the present Code.

(2) Assistance in committing a criminal offence includes giving advice or instruction on how to commit a criminal offence, making available for the perpetrator the means to commit a criminal offence, removing the impediments to the commission of a criminal offence, or promising in advance to conceal evidence of the commission of a criminal offence, the identity of the perpetrator, the means used for the commission of a criminal offence, or the profits which result from the commission of a criminal offence.

## Article 26

**CRIMINAL ASSOCIATION**

(1) Whoever agrees, explicitly or implicitly, with one or more persons to commit or to incite the commission of a criminal offence punishable by imprisonment of at least five years and undertakes preparatory acts for the fulfilment of such agreement participates in a criminal association and shall be punished as provided for in Article 65(2) of the present Code.

(2) The court may reduce or waive the punishment of a person who is criminally liable as provided for in paragraph 1 of the present article if such person:

- 1) Voluntarily renounces the agreement;
- 2) Voluntarily undertakes actions to prevent the continuous existence of the criminal association or the commission of a criminal offence consistent with its goals; or
- 3) Voluntarily discloses knowledge of the agreement to the police while the planned criminal offence may still be prevented.

## Article 27

**LIMITS ON CRIMINAL LIABILITY AND PUNISHMENT FOR COLLABORATION**

- (1) A co-perpetrator is criminally liable within the limits of his or her intent or negligence, while a person who incites or assists in the commission of a criminal offence shall be held criminally liable within the limits of his or her intent.
- (2) The court shall waive the punishment of a co-perpetrator or of a person who incites or assists in the commission of a criminal offence where such person voluntarily prevents the commission of a criminal offence.

**SPECIAL PROVISIONS ON CRIMINAL LIABILITY FOR CRIMINAL OFFENCES COMMITTED THROUGH THE MEDIA**

## Article 28

**CRIMINAL LIABILITY OF CHIEF EDITORS, PUBLISHERS, PRINTERS OR MANUFACTURERS**

- (1) When a criminal offence has been committed through the publication of information in the newspapers or other type of periodical, radio, or television, the author of the information is criminally liable.
- (2) The responsible chief editor or the person replacing him or her at the time of the publication of information is criminally liable when:
- 1) The author cannot be found or tried before a court of Kosovo; or
  - 2) The publication of the information was made without the knowledge of the author or against his or her will.
- (3) The publisher of a newspaper or other type of periodical is criminally liable when the chief editor or the person replacing him or her at the time of the publication of information in the newspaper or other type of periodical are criminally liable in accordance with paragraph 2 of the present article and cannot be found or tried before a court of Kosovo.
- (4) When the publisher is criminally liable in accordance with paragraph 3 of the present article and it is not possible to punish the publisher due to the legal or factual impediments, the printer is criminally liable if he or she knew that such legal or factual impediments existed.
- (5) The manufacturer is criminally liable when the chief editor or the person replacing him or her at the time of the publication of information by means of magnetic tape, film, slides, photographs or other video and audio devices intended for the mass media or for presentation to the public or to a large number of persons are criminally liable in accordance with paragraph 2 of the present article and cannot be found or tried before a court of Kosovo.
- (6) When the publisher, printer or manufacturer who is criminally liable pursuant to the present Article is a legal person or a public entity, the person responsible for the printing or manufacturing activities is criminally liable.

(7) The persons referred to in the present Article are not criminally liable if the publication of information is an accurate report of a session of a public entity or a statement by an official person.

#### Article 29

##### **PROTECTING SOURCES OF INFORMATION**

(1) A person who takes part as a professional in the publication of information or as a member of an editorial board of the media and his or her assistant are not criminally liable if they refuse to disclose the author of a publication or the sources of information.

(2) The persons referred to in paragraph 1 of the present article are criminally liable if the court finds that:

- 1) The disclosure of information is necessary to prevent an attack that constitutes an imminent threat to life or physical integrity of any persons; or
- 2) The disclosure of information is necessary to prevent an offence punishable by imprisonment of at least three years or an offence provided for in Articles 196, 203, 340, 343 or 344.

#### Article 30

##### **APPLICATION OF GENERAL PROVISIONS ON CRIMINAL LIABILITY**

The provisions on the criminal liability of persons referred to under Articles 28 and 29 are applicable only if those persons are not held criminally liable under general provisions on criminal liability defined in the present Code.

#### Article 31

##### **MANNER OF COMMISSION OF CRIMINAL OFFENCES**

(1) A criminal offence may be committed by an act or omission.

(2) A criminal offence is committed by omission only when the perpetrator has an obligation to act but fails to do so.

#### Article 32

##### **TIME OF COMMISSION OF CRIMINAL OFFENCES**

A criminal offence is committed at the time the perpetrator acted or ought to have acted, irrespective of when the consequence occurred.

## Article 33

**LOCATION OF COMMISSION OF CRIMINAL OFFENCES**

- (1) A criminal offence is committed at the location where the perpetrator acted or ought to have acted, as well as at the location where the consequence occurred.
- (2) A criminal offence is attempted at the location where the perpetrator acted, as well as at the location where the perpetrator intended the consequence to occur.

**CHAPTER III: PUNISHMENTS**

## Article 34

**PURPOSE OF PUNISHMENTS**

The purposes of punishment are:

- 1) To prevent the perpetrator from committing criminal offences in the future and to rehabilitate the perpetrator; and
- 2) To deter other persons from committing criminal offences.

## Article 35

**TYPES OF PUNISHMENTS**

There are principal, alternative and accessory punishments.

**PRINCIPAL PUNISHMENTS**

## Article 36

**PRINCIPAL PUNISHMENTS**

The principal punishments are:

- 1) Punishment of long-term imprisonment;
- 2) Punishment of imprisonment; and
- 3) Punishment of a fine.

## Article 37

**PUNISHMENT OF LONG-TERM IMPRISONMENT**

- (1) The law may provide for the punishment of long-term imprisonment for the most serious criminal offences committed intentionally either under particularly aggravating circumstances or causing especially grave consequences.

- (2) The punishment of long-term imprisonment is imprisonment for a term of twenty-one to forty years.
- (3) The punishment of long-term imprisonment cannot be prescribed as the only principal punishment for a particular criminal offence.
- (4) If the punishment of long-term imprisonment has been imposed, conditional release may be granted only after three-quarters of the term of imprisonment has been served.

#### Article 38

##### **PUNISHMENT OF IMPRISONMENT**

- (1) The punishment of imprisonment may not be shorter than fifteen days or longer than twenty years.
- (2) The punishment of imprisonment is imposed in full years and months and, in cases where the term is up to six months, in full days.
- (3) When the court pronounces a punishment of imprisonment of up to three months it may order that the punishment of imprisonment be replaced with a fine or, upon the consent of the perpetrator, with community service work.

#### Article 39

##### **PUNISHMENT OF FINE**

- (1) The punishment of a fine may not be less than 50 European euro (hereinafter "euro"). The punishment of a fine may not exceed 25,000 euro or, in the case of criminal offences committed to obtain a material benefit, it may not exceed 500,000 euro.
- (2) The judgment shall determine the deadline for the payment of a fine, which may not be less than fifteen days or more than three months, but in justifiable circumstances, the court may allow the fine to be paid in instalments over a period not exceeding two years.
- (3) If the convicted person is unwilling or unable to pay the fine, the court may allow the fine to be paid in instalments over a period not exceeding two years. Thereafter, if the convicted person remains unwilling or unable to pay the fine, the court may, with the consent of the convicted person, replace the fine with an order for community service work which will not interfere with his or her regular employment activities, as far as possible.
- (4) If the convicted person does not consent to the replacement of the fine with an order for community service work, as provided for in paragraph 3 of the present article the court shall order a day of imprisonment for each 15 euro of the fine, provided that the term of imprisonment does not exceed six months.
- (5) The punishment of a fine may be also imposed as an accessory punishment (Article 54 of the present Code).
- (6) A fine shall not be collected after the death of the convicted person.

## Article 40

**REPLACEMENT OF PUNISHMENT WITH ORDER FOR COMMUNITY SERVICE WORK**

(1) The court may order community service work with the consent of the convicted person to replace a punishment of imprisonment or a fine, in accordance with Article 38(3) or Article 39(3).

(2) When imposing an order for community service work, the court shall order the convicted person to perform unpaid community service work for a specified term of 30 to 240 working hours. The probation service will determine the type of community service work to be performed by the convicted person, designate the specific organization for which the convicted person will perform the community service work, decide on the days of the week when the community service work will be performed and supervise the performance of the community service work.

(3) The community service work shall be performed within a period specified by the court which shall not exceed one year.

(4) If, upon the expiry of the specified period, the convicted person has not performed the community service work or has only partially performed such community service work, the court shall order a term of imprisonment proportionate to the duration of the community service work that has not been performed. The term of imprisonment shall not exceed the original term of imprisonment in the case of an order for community service work issued pursuant to Article 38(3) or shall not exceed six months in the case of an order for community service work issued pursuant to Article 39(3).

**ALTERNATIVE PUNISHMENTS**

## Article 41

**ALTERNATIVE PUNISHMENTS**

(1) The alternative punishments are:

- 1) Suspended sentence; and
- 2) Semi-liberty

(2) When imposing a suspended sentence, the court may also impose:

- 1) An order for mandatory rehabilitation treatment;
- 2) An order for supervision by the probation service; and
- 3) An order for community service work.

## Article 42

**PURPOSE OF SUSPENDED SENTENCES**

The purpose of a suspended sentence is to give the perpetrator a reprimand which achieves the purpose of a punishment by pronouncing a sentence without executing it.



## Article 43

**SUSPENDED SENTENCE**

- (1) The court may impose a suspended sentence on the perpetrator under the conditions provided for by the present Code.
- (2) In imposing a suspended sentence, the court pronounces a punishment on the convicted person and at the same time orders that this punishment shall not be executed if the convicted person does not commit another criminal offence for the period of time determined by the court (verification period) which cannot be less than one year or more than five years.
- (3) Within a suspended sentence the court may order that the punishment be executed if, within a determined time, the convicted person does not return the material benefit acquired from the commission of the criminal offence, does not compensate the damage caused by the criminal offence or does not perform another obligation provided for by provisions in the criminal law. The court shall determine a deadline for the performance of these obligations within the verification period.

## Article 44

**CONDITIONS FOR IMPOSING SUSPENDED SENTENCES**

- (1) A suspended sentence may be imposed on a perpetrator of a criminal offence punishable by imprisonment of up to five years and on a perpetrator of a criminal offence punishable by imprisonment of up to ten years, if the provisions of mitigation of the punishment are applied.
- (2) A suspended sentence may be imposed on a perpetrator as foreseen in paragraph 1 of the present article when the court pronounces a punishment of a fine or of imprisonment of up to two years, either for a single offence or concurrent offences.
- (3) When determining whether to impose a suspended sentence, the court shall consider, in particular, the purpose of a suspended sentence, the past conduct of the perpetrator, his or her behaviour after the commission of the criminal offence, the degree of criminal liability and other circumstances under which the criminal offence was committed.
- (4) When the court pronounces a punishment of imprisonment and of a fine, the court may impose a suspended sentence for both punishments or for only the punishment of imprisonment.

## Article 45

**REVOCAION OF SUSPENDED SENTENCES DUE TO NEWLY- COMMITTED CRIMINAL OFFENCES**

- (1) The court shall revoke a suspended sentence if, during the verification period, the convicted person commits one or more criminal offences for which a punishment of imprisonment of at least two years has been imposed.

(2) The court may revoke a suspended sentence if, during the verification period, the convicted person commits one or more criminal offences for which a punishment of imprisonment of less than two years or a punishment of a fine has been imposed, after considering all circumstances related to the committed criminal offences and to the convicted person, and especially the similarity of the committed criminal offences, their importance and the motives for committing the criminal offences.

(3) When revoking a suspended sentence, the court shall impose a single punishment for the criminal offence committed previously and the new criminal offence, in accordance with Article 71 of the present Code and treat the revoked suspended sentence as determined.

(4) If the court does not revoke a suspended sentence, it may impose a suspended sentence or a punishment of imprisonment or a punishment of a fine for the newly-committed criminal offence. If the court imposes a suspended sentence for the newly-committed criminal offence, the court shall apply the provisions of Article 71 of the present Code to impose a compound suspended sentence for both the previously committed and the newly committed criminal offence and it shall also determine a compound verification period which can be no less than one year and no more than five years, commencing on the day the sentence became effective. If the court imposes a punishment of imprisonment for the newly committed criminal offence, the period of time spent serving such term of imprisonment shall not be deducted from the verification period established by the suspended sentence for the previously committed act.

#### Article 46

#### **REVOCAION OF SUSPENDED SENTENCES DUE TO PREVIOUSLY-COMMITTED CRIMINAL OFFENCES**

The court shall revoke the suspended sentence if, after imposing the suspended sentence, there is a final judgment establishing that the convicted person committed another criminal offence prior to the imposition of the suspended sentence and if the court determines that the suspended sentence would have not been imposed if that criminal offence had been known. In such a case, the provisions of Article 45(3) of the present Code shall apply.

#### Article 47

#### **REVOCAION OF SUSPENDED SENTENCES DUE TO FAILURE TO PERFORM OBLIGATIONS**

If a suspended sentence is conditioned on the performance of one of the obligations provided for in Article 43(3) of the present Code and the convicted person fails to perform that obligation within the time determined by the court, the court may, within the verification period, extend the term for the performance of the obligation or it may revoke the suspended sentence and execute the punishment provided for in the suspended sentence. If the court determines that the convicted person was unable to perform the obligation for justified reasons, the court shall waive the performance of that obligation or replace it with another adequate obligation provided for by law.

## Article 48

**DEADLINES FOR REVOCATION OF SUSPENDED SENTENCES**

- (1) A suspended sentence may be revoked during the verification period. If a convicted person commits a criminal offence entailing revocation of the suspended sentence during this period but it is established by judgment only after the expiry of the verification period, the suspended sentence may be revoked no later than one year after the expiry of the verification period.
- (2) If a convicted person fails to perform an obligation provided for in Article 43(3) of the present Code within the time determined by the court, the court may revoke the suspended sentence no later than one year after the expiry of the verification period and order the execution of the punishment imposed in the suspended sentence.

## Article 49

**SUSPENDED SENTENCE WITH ORDER FOR MANDATORY REHABILITATION TREATMENT**

- (1) The court may impose a suspended sentence with an order for mandatory rehabilitation treatment, where the convicted person is a first time offender and a drug addict or alcoholic, if the court determines that the primary factor motivating the criminal offence was related to his or her drug or alcohol addiction and that successful treatment would minimise the risk of the commission of another criminal offence, after considering the report of the probation service.
- (2) The probation service shall supervise the rehabilitation treatment program.
- (3) The punishment will be deemed as served upon successful completion of the rehabilitation treatment program.
- (4) If the convicted person withdraws from the rehabilitation treatment program or does not perform obligations related to the order for treatment, the court may replace the previous obligation with a different one, extend the duration of the order for treatment or revoke the suspended sentence and order the execution of the punishment provided for in the suspended sentence.

## Article 50

**SUSPENDED SENTENCE WITH ORDER FOR SUPERVISION BY THE PROBATION SERVICE**

- (1) The court may impose a suspended sentence with an order for supervision by the probation service if the court determines that the integration of the convicted person into society will be better achieved through supervision by the probation service, after considering the report of the probation service.
- (2) When imposing a suspended sentence with an order for supervision by the probation service, the court shall order the convicted person to maintain contact with the probation service. The court may also order the convicted person to perform one or more of the obligations provided for in Article 43(3) or Article 51 of the present Code. The duration of an obligation provided for in Article 51 shall not be less than six months or more than three years.

(3) In choosing among the obligations provided for in Article 51 of the present Code, the court shall consider, in particular, the age of the convicted person, his or her general health and mental condition, lifestyle and needs, especially those related to family, school and work, the motives for committing the criminal offence, his or her behaviour after its commission, his or her past conduct, personal and family-related and other circumstances which are important for the selection of the kind of supervision and its duration.

(4) If the convicted person fails to maintain contact with the probation service or to perform an obligation provided for in Article 51 of the present Code, as ordered by the court, the court may replace the previous obligation with a different one, extend the duration of the supervision within the verification period, or revoke the suspended sentence.

#### Article 51

#### **TYPES OF OBLIGATIONS INCLUDED IN A SUSPENDED SENTENCE WITH ORDER FOR SUPERVISION BY THE PROBATION SERVICE**

A suspended sentence with an order for supervision by the probation service may also include an order to perform one or more of the following obligations:

- 1) To receive medical or rehabilitation care in a health care institution;
- 2) To undergo a medical or rehabilitation treatment program;
- 3) To visit a psychologist and/or another consultant and act in accordance with their recommendations;
- 4) To receive vocational training for a certain profession;
- 5) To perform a work activity;
- 6) To use wage and other income or property to fulfil a family obligation;
- 7) To refrain from changing residence without the authorisation of the probation service;
- 8) To abstain from the use of alcohol or drugs;
- 9) To refrain from frequenting certain places or locales serving alcohol;
- 10) To refrain from meeting certain people; or
- 11) To refrain from carrying any kind of weapons.

#### Article 52

#### **SUSPENDED SENTENCE WITH ORDER FOR COMMUNITY SERVICE WORK**

(1) After considering the report of the probation service, the court may impose a suspended sentence with an order for community service work on a perpetrator provided for in paragraph 1 of Article 44 if the court pronounces a punishment of a fine of up to 2,500

euro or of imprisonment of up to one year. Community service work may only be ordered upon the consent of the convicted person.

(2) When imposing a suspended sentence with an order for community service work, the court shall order the convicted person to perform unpaid community service work for a specified term of 30 to 240 working hours. The probation service will determine the type of community service to be performed by the convicted person, designate the specific organization for which the convicted person will perform the community service, decide on the days of the week when the community service work will be performed and supervise the performance of the community service work.

(3) The community service work shall be performed within a period of time determined by the court which shall not exceed one year.

(4) When imposing a suspended sentence with an order for community service work, the court may also order the convicted person to maintain contact with the probation service or to perform one or more of the obligations provided for in Article 43(3) or Article 51 of the present Code. The duration of an obligation provided for in Article 51 shall not be less than six months or more than three years. Article 50(3) shall apply *mutatis mutandis* to an obligation ordered under this paragraph.

(5) If the convicted person fails to perform the community service work, to maintain contact with the probation service or to perform an obligation provided for in Article 51, as ordered by the court, the court may replace the previous obligation with a different one, extend the duration of the supervision within the verification period, or revoke the suspended sentence.

#### Article 53

##### **SEMI-LIBERTY**

(1) When the court imposes a punishment of imprisonment of up to one year, it may order the execution of the punishment in semi-liberty, by reason of the convicted person's obligations related to work, education or vocational training, essential family responsibilities, or need for medical or rehabilitation treatment. When serving a punishment in semi-liberty, the convicted person is obliged to return to a prison after performing his or her obligations outside a prison within the period of time determined by the court.

(2) When the convicted person does not perform his or her obligations related to work, education or vocational training, perform essential family responsibilities, receive necessary medical or rehabilitation treatment or return to the prison after performing his or her obligations, the court shall revoke the order for the execution of the punishment in semi-liberty and order that the remaining punishment be served in a prison.

**ACCESSORY PUNISHMENTS**

## Article 54

**ACCESSORY PUNISHMENTS**

- (1) An accessory punishment may be imposed together with a principal or alternative punishment.
- (2) The accessory punishments are:
  - 1) Fine;
  - 2) Deprivation of the right to be elected;
  - 3) Prohibition on exercising public administration or public service functions;
  - 4) Prohibition on exercising a profession, activity or duty;
  - 5) Prohibition on driving a motor vehicle;
  - 6) Confiscation of a driving license;
  - 7) Confiscation of an object;
  - 8) Order to publish a judgment; and
  - 9) Expulsion of a foreigner from the territory of Kosovo.
- (3) The accessory punishment of a prohibition on driving a motor vehicle, of confiscation of a driving license and confiscation of an object may be imposed together with a suspended sentence a judicial admonition or a waiver of punishment.

## Article 55

**DEPRIVATION OF RIGHT TO BE ELECTED**

The court shall deprive a perpetrator of the right to be elected for one to three years, if such person, with the intent of becoming elected, uses threat, falsifies election lists or commits another criminal offence for which he or she is punished by imprisonment of at least five years.

## Article 56

**PROHIBITION ON EXERCISING PUBLIC ADMINISTRATION OR PUBLIC SERVICE FUNCTIONS**

- (1) The court shall prohibit a perpetrator from exercising public administration or public service functions for one to five years after the punishment of imprisonment has been served, if such person has abused these functions and has been punished by imprisonment of at least ten years.

(2) The court may prohibit a perpetrator from exercising public administration or public service functions for one to three years after the punishment of imprisonment has been served, if such person has abused these functions and has been punished by imprisonment of up to ten years.

(3) When imposing a suspended sentence, the court may decide that the suspended sentence will be revoked if the perpetrator does not comply with the prohibition on exercising public administration or public service functions.

#### Article 57

##### **PROHIBITION ON EXERCISING A PROFESSION, ACTIVITY OR DUTY**

(1) The court may prohibit a perpetrator from exercising a profession, an independent activity, a management or administrative duty or duties related to the disposition, management or use of socially-owned property or the protection of such property, if the such person has abused his or her position, activity or duty in order to commit a criminal offence or if there is reason to expect that the exercise of such profession, activity or duty can be misused to commit a criminal offence.

(2) The court determines the duration of the punishment ordered according to paragraph 1 of the present article, which may not be less than one year or more than five years, starting from the day the decision of the court becomes final, provided that the period of time served in a prison or in a health care institution is not included in the duration of this punishment.

(3) When imposing a suspended sentence, the court may decide that the suspended sentence will be revoked if the perpetrator does not comply with the prohibition on exercising a profession, activity or duty.

#### Article 58

##### **PROHIBITION ON DRIVING MOTOR VEHICLES**

(1) The court may prohibit a perpetrator who jeopardizes the safety of public traffic from driving a motor vehicle of a specific kind and category.

(2) The court shall determine the duration of the punishment ordered in paragraph 1 of the present article, which may not be less than one year or more than five years, starting from the day the decision of the court becomes final, provided that the period of time served in a prison or in a health care institution is not included in the duration of this punishment.

(3) When imposing a suspended sentence, the court may decide that such a suspended sentence will be revoked if the perpetrator violates the prohibition on driving the motor vehicle.

(4) If the punishment provided for in paragraph 1 of the present article is imposed on a person who has a foreign license for driving a motor vehicle, the punishment will consist of the prohibition on using the foreign license within the territory of Kosovo.

## Article 59

**CONFISCATION OF DRIVER'S LICENSES**

- (1) The court may confiscate a driver's license for a specific type and category of motor vehicle from a perpetrator who jeopardizes the safety of the public traffic and prohibit the perpetrator from obtaining a new driver's license for a period of one to five years. If the perpetrator does not have a driver's license, the court shall prohibit the perpetrator from obtaining a driver's license within the period of time specified above.
- (2) The court may impose the punishment provided for in paragraph 1 of the present article if the perpetrator has committed a criminal offence causing serious bodily injury or death of a person or if the court establishes that further driving in public traffic shall be dangerous to the safety of public traffic because of his or her inability to drive a motor vehicle safely.
- (3) The driving license shall be confiscated by a final decision of the court. The period of time served in a prison or in a health care institution shall not be included in the duration of the present punishment.
- (4) After the expiry of the period determined by the court, the perpetrator may obtain a new driving license pursuant to the general conditions provided for obtaining the relevant driving license.

## Article 60

**CONFISCATION OF OBJECTS**

- (1) Objects used or destined for use in the commission of a criminal offence or objects derived from the commission of a criminal offence may be confiscated if they are property of the perpetrator.
- (2) Objects provided for in paragraph 1 of the present article may be confiscated even if they are not the property of the perpetrator if this is necessary for the interests of general security, but such confiscation does not adversely affect the rights of third parties to obtain compensation from the perpetrator for any damage.
- (3) The law may provide for the mandatory confiscation of an object.

## Article 61

**ORDER TO PUBLISH JUDGMENTS**

- (1) The court may order the publication of a judgment, if it determines that publication is in the interests of the public, the injured party or other persons.
- (2) An order to publish a judgment shall require that a judgment be published, in whole or in part, in a newspaper, radio broadcast or television broadcast, at the expense of the perpetrator.
- (3) The date of the publication and its duration shall be determined by the court.



- (4) A newspaper, radio station or television station shall publish a judgment sent to them by the court.
- (5) The publication of the judgment shall not be ordered if such publication would endanger an official secret, the privacy of persons or the morals of society.

#### Article 62

##### **EXPULSION OF FOREIGNERS FROM THE TERRITORY OF KOSOVO**

- (1) The court may order the expulsion of a foreigner from the territory of Kosovo for a period of one to ten years.
- (2) In determining whether to apply the punishment provided for in paragraph 1 of the present article and the duration of such punishment, the court shall take into account the type and the gravity of the criminal offence, the motives for committing the criminal offence and the perpetrator's attachment to Kosovo.
- (3) The punishment provided for in paragraph 1 of the present article shall not be imposed if the execution of the punishment would be contrary to Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the Protocols thereto, the Convention Relating to the Status of Refugees of 28 July 1951 and its Protocol of 31 January 1967 or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 17 December 1984.
- (4) The duration of the expulsion shall start from the day the court decision becomes final, provided that the period of time served in a prison or in a health care institution is not included in the duration of this punishment.

#### Article 63

##### **EXECUTION OF ACCESSORY PUNISHMENTS**

- (1) Subject to paragraph 2, the execution of the accessory punishments provided for in Article 54 of the present Code shall commence with the execution of a principal or alternative punishment.
- (2) The execution of the accessory punishments provided for in subparagraphs 2, 3, 4, 5, 6 and 9 of Article 54(2) of the present Code shall commence after the term of imprisonment has been served. While serving the punishment of imprisonment, the convicted person may not enjoy the rights limited by the accessory punishments.

##### **CALCULATION OF PUNISHMENT**

#### Article 64

##### **GENERAL RULES ON CALCULATING PUNISHMENTS**

- (1) The court shall determine the punishment of a criminal offence within the limits provided for by law for such criminal offence, taking into consideration the purpose of punishment, all the circumstances that are relevant to the mitigation or aggravation of the

punishment (mitigating and aggravating circumstances) and, in particular, the degree of criminal liability, the motives for committing the act, the intensity of danger or injury to the protected value, the circumstances in which the act was committed, the past conduct of the perpetrator, the entering of a guilty plea, the personal circumstances of the perpetrator and his or her behaviour after committing a criminal offence. The punishment shall be proportionate to the gravity of the offence and the conduct and circumstances of the offender.

(2) When determining the punishment for a recidivist, the court shall especially take into consideration whether he or she has previously committed a criminal offence of the same type as the new criminal offence, whether the two acts are committed for the same motives, and the period of time that has elapsed since the previous conviction was pronounced or since the punishment was served or waived.

(3) When determining the punishment of a fine, the court shall consider the material situation of the perpetrator, and, in particular, the amount of his or her personal income, other income, assets and obligations. The court shall not set the level of a fine above the means of the perpetrator.

#### Article 65

##### **GENERAL RULES ON MITIGATION OR AGGRAVATION OF PUNISHMENTS**

(1) The punishment imposed on a perpetrator is the punishment prescribed for the criminal offence, while a more lenient or severe punishment may be imposed only in accordance with the conditions provided for by the present Code.

(2) The punishment imposed for attempt, assistance and criminal association shall be no more than three-quarters of the maximum punishment prescribed for the criminal offence. In the cases where the punishment of a fine has been imposed, the same will apply to the maximum fine provided for by law.

#### Article 66

##### **MITIGATION OF PUNISHMENTS**

The court may impose a punishment below the limits provided for by law or impose a lesser type of punishment:

- 1) When the law provides that the punishment of the perpetrator may be mitigated;  
or
- 2) When the court finds that there are particularly mitigating circumstances which indicate that the purpose of punishment can be achieved by imposing a lesser punishment.

#### Article 67

##### **LIMITS ON MITIGATION OF PUNISHMENTS**

(1) When the conditions provided for in Article 66 of the present Code exist, the court shall mitigate the punishment within the following limits:

- 1) If long-term imprisonment is provided as the punishment for a criminal offence, the punishment can be mitigated to imprisonment of ten years;
  - 2) If a period of at least three years is provided as the minimum term of imprisonment for a criminal offence, the punishment can be mitigated to imprisonment of one year;
  - 3) If a period of two years is provided as the minimum term of imprisonment for a criminal offence, the punishment can be mitigated to imprisonment of six months;
  - 4) If a period of one year is provided as the minimum term of imprisonment for a criminal offence, the punishment can be mitigated to imprisonment of three months;
  - 5) If a period of less than one year is provided as the minimum term of imprisonment for a criminal offence, the punishment can be mitigated to imprisonment of fifteen days;
  - 6) If there is no indication of the minimum term of imprisonment for a criminal offence, a punishment of a fine can be imposed instead of imprisonment;
  - 7) If there is no indication of the minimum amount of a fine for a criminal offence, the fine can be mitigated to 50 euro.
- (2) In determining the degree of mitigation of punishment in accordance with paragraph 1 of the present article, the court shall take into special consideration the minimum and maximum term of punishment provided for the criminal offence.

#### Article 68

##### **WAIVER OF PUNISHMENTS**

- (1) The court may waive the punishment of the perpetrator for a criminal offence only when it is explicitly provided for by law.
- (2) When the court has been authorised by the law to waive the punishment of a perpetrator for a criminal offence, it may mitigate the punishment regardless of the limits on the mitigation of punishment.

#### Article 69

##### **SPECIAL GROUNDS TO WAIVE PUNISHMENTS FOR CRIMINAL OFFENCES COMMITTED NEGLIGENTLY**

The court may waive the punishment of a perpetrator if he or she commits a criminal offence by negligence in the following cases:

- 1) If the consequences of the criminal offence affect the perpetrator so severely that the punishment is unnecessary to achieve its purpose; or

- 2) If immediately after the commission of a criminal offence the perpetrator makes efforts to eliminate or reduce the consequences of the offence and if he or she completely or substantially compensates for the damage caused by the offence.

#### Article 70

##### **AGGRAVATION OF PUNISHMENTS FOR MULTIPLE RECIDIVISM**

(1) The court may impose a more severe punishment than the one provided for by law for a criminal offence punishable by imprisonment when it is committed intentionally in the following case:

- 1) If the perpetrator has been previously sentenced two or more times to imprisonment of at least one year for criminal offences committed intentionally; and
- 2) If less than five years have elapsed between the date of release or termination of the previous punishment and the commission of the new criminal offence.

(2) The court may impose a more severe punishment by adding no more than up to one half of the maximum punishment to the maximum punishment.

(3) When determining whether to impose a more severe punishment, the court shall consider, in particular, the entering of a guilty plea, the similarity between the criminal offences committed, the motives for which they were committed, the circumstances in which they were committed and also the need to impose such a punishment to fulfil the purpose of the punishment.

(4) The present article shall not apply to the punishment of long-term imprisonment.

#### Article 71

##### **PUNISHMENT OF CONCURRENT CRIMINAL OFFENCES**

(1) If a perpetrator, by one or more acts, commits several criminal offences for which he or she is tried at the same time, the court shall first pronounce the punishment for each act and then impose an aggregate punishment for all of these acts.

(2) The court shall impose an aggregate punishment in accordance with these rules:

- 1) If the court has pronounced a punishment of long-term imprisonment for one of the criminal offences, it shall impose this punishment only;
- 2) If the court has pronounced a punishment of imprisonment for each criminal offence, the aggregate punishment must be higher than each individual punishment but the aggregate punishment may not be as high as the sum of all prescribed punishments nor may it exceed a period of twenty years;
- 3) If the court has pronounced a punishment of imprisonment of up to three years for each criminal offence, the aggregate punishment of imprisonment may not exceed eight years;

- 4) If the court has pronounced a punishment of a fine for each criminal offence, the aggregate punishment of a fine may not exceed the amount of 25,000 euro or, when one or more criminal offences are committed with the intent to obtain a material benefit, the amount of 50,000 euro;
  - 5) If the court has pronounced a punishment of imprisonment for some criminal offences, while for others it has pronounced a punishment of a fine, the court will impose an aggregate punishment of imprisonment and of a fine, in accordance with sub-paragraphs 2 through 4 of paragraph 2 of the present article.
- (3) The court shall impose an accessory punishment if it has been pronounced for at least one of the criminal offences, or if the court has pronounced punishments of a fine for many criminal offences, it will impose an aggregate punishment of a fine in accordance with subparagraph 4 of paragraph 2 of the present article.

#### Article 72

##### **CALCULATING PUNISHMENT OF CONVICTED PERSONS**

- (1) If a convicted person is tried for a criminal offence he or she committed before serving a punishment imposed under an earlier conviction or for a criminal offence committed while serving a punishment of imprisonment or of long-term imprisonment, the court shall impose an aggregate punishment (Article 71 of the present Code), taking into consideration the previously imposed punishment. The punishment or part of the punishment which the convicted person has already served shall be included in the aggregate punishment.
- (2) For a criminal offence committed while serving a punishment of imprisonment or of long-term imprisonment, the court shall determine the punishment of the perpetrator independently of the previously imposed punishment if the application of the provisions of Article 71 of the present Code would lead to failure to achieve the aims of punishment considering the duration of the unserved portion of the previously imposed punishment.

#### Article 73

##### **CALCULATING DETENTION AND PREVIOUS PUNISHMENT**

- (1) Time served in detention as well as any period of deprivation of liberty related to the criminal offence shall be included in the punishment of imprisonment, of long-term imprisonment and of a fine.
- (2) A punishment of imprisonment or of a fine for a minor offence or an economic violation which was served or paid by the convicted person shall be included in the punishment for a criminal offence whose characteristics include the characteristics of the minor offence or the economic violation.
- (3) A protective measure which has been imposed for a minor offence or an economic violation shall be included in the accessory punishment for a criminal offence whose characteristics include the characteristics of the minor offence or the economic violation.

(4) One day of detention, one day of deprivation of liberty, one day of imprisonment, one day of long-term imprisonment and a fine of 15 euro are equal for the purposes of calculation under the present article.

#### **CHAPTER IV: JUDICIAL ADMONITION**

##### Article 74

###### **PURPOSE OF JUDICIAL ADMONITION**

The purpose of a judicial admonition is to give a perpetrator a reprimand when, considering all the circumstances regarding the offence and the perpetrator, a judicial admonition is sufficient to achieve the purpose of a punishment.

##### Article 75

###### **JUDICIAL ADMONITION**

(1) A perpetrator subject to a judicial admonition shall be informed that he or she has committed a harmful and dangerous act which constitutes a criminal offence and that if he or she commits such act again, the court will impose a more severe criminal sanction.

(2) A judicial admonition may be imposed for criminal offences which are punishable by imprisonment of up to one year or by a fine, when such offences are committed under mitigating circumstances which render the offences particularly minor.

(3) A judicial admonition may be imposed for certain criminal offences and under the conditions provided for by law, even when the criminal offence is punishable by imprisonment of up to three years.

(4) The court may impose a judicial admonition for more than one criminal offence committed concurrently, when each of the criminal offences meet the conditions provided for in paragraph 2 or 3 of the present article.

(5) When determining whether to impose a judicial admonition, the court shall consider, in particular, the purpose of a judicial admonition, the perpetrator's past conduct, his or her behaviour after the commission of the criminal offence, the degree of criminal liability, other circumstances in which the act has been committed and the voluntary participation of the perpetrator in a treatment program.

#### **CHAPTER V: MEASURES OF MANDATORY TREATMENT**

##### Article 76

###### **SPECIAL PROVISIONS ON MEASURES OF MANDATORY PSYCHIATRIC TREATMENT**

The procedures for ordering measures of mandatory psychiatric treatment of a perpetrator who is mentally incompetent or who has diminished mental capacity shall be provided for separately by law.

## Article 77

**MANDATORY REHABILITATION TREATMENT OF PERSONS ADDICTED TO DRUGS OR ALCOHOL**

(1) The court may order mandatory rehabilitation treatment in a health care institution against any person who has committed a criminal offence under the influence of drugs or alcohol, if the court has imposed a punishment, a judicial admonition or a waiver of punishment on the perpetrator and if it determines that the primary factor motivating the criminal offence was related to his or her addiction to drugs or alcohol and there are prospects for his or her successful treatment. The time spent in the health care institution shall be calculated towards the serving of the punishment.

(2) If the measure referred to in paragraph 1 of the present article is imposed in addition to the punishment of a fine, a judicial admonition, or a waiver of punishment, the court may decide, upon the consent of the convicted person, that such measure be executed in liberty. If the perpetrator fails to undergo the treatment in liberty without a justifiable cause or if he or she arbitrarily quits the treatment, the court may order that the treatment be executed in a health care institution.

(3) If the measure referred to in paragraph 1 of the present article is imposed in addition to the punishment of imprisonment, it may last until the punishment is served. If the measure referred to in paragraph 1 of the present article is imposed in addition to the punishment of a fine, a judicial admonition, or a waiver of punishment, the treatment may not last for more than two years. The court must examine the execution of this measure every two months to determine whether it is necessary to continue the measure.

**CHAPTER VI: GENERAL PROVISIONS ON THE EXECUTION OF PUNISHMENTS**

## Article 78

**EXECUTION OF PUNISHMENTS OF IMPRISONMENT AND LONG-TERM IMPRISONMENT**

(1) The punishment of imprisonment shall be served in confined, semi-confined and open premises of institutions designated for the execution of punishments.

(2) The punishment of long-term imprisonment shall be served in confined institutions designated for the execution of punishments.

(3) During the execution of a punishment, the convicted person shall not be subjected to inhuman or degrading treatment or punishment, including unnecessary mental and physical exertion or the deprivation of adequate medical treatment or other basic necessities.

## Article 79

**LIMITS ON THE EXECUTION OF PUNISHMENTS**

During the execution of a punishment, the fundamental rights of a convicted person shall always be respected. The rights of a convicted person may only be restricted to the extent necessary in compliance with the law and international human rights standards.

## Article 80

**CONDITIONAL RELEASE**

- (1) The convicted person may be granted conditional release if there are reasonable grounds to expect that he or she will not commit a new criminal offence. The conduct of the convicted person while serving his or her punishment shall be taken into consideration when deciding whether or not conditional release may be granted.
- (2) A convicted person who has served one-half of a sentence of imprisonment may be granted conditional release and released from prison on the condition that he or she does not commit another criminal offence before the expiry of the sentence.
- (3) A convicted person who has served one-third of a sentence of imprisonment may be granted conditional release on an exceptional basis provided that special circumstances relating to the convicted person indicate that he or she will not commit a new criminal offence.
- (4) A convicted person who has served three-quarters of a sentence of long-term imprisonment may be granted conditional release.
- (5) Conditional release shall be decided by a panel established by the competent public entity in the field of judicial affairs in accordance with the law.

## Article 81

**REVOCAION OF CONDITIONAL RELEASE**

- (1) The court shall revoke conditional release if a convicted person, while on conditional release, commits one or more criminal offences for which a punishment of imprisonment of more than one year was imposed.
- (2) The court may revoke conditional release if a convicted person, while on conditional release, commits one or more criminal offences for which a punishment of imprisonment of up to one year was imposed. In determining whether to revoke conditional release, the court shall consider, in particular, the similarity of criminal offences committed, the motives for committing the criminal offences and other circumstances that indicate the appropriateness of revoking conditional release.
- (3) When the court revokes conditional release, it shall impose a punishment on the basis of the provisions from Article 71 and Article 72(2) of the present Code, treating the previously imposed punishment as determined. The portion of the previously imposed punishment which has been served by the convicted person following the previous sentence shall be calculated in the new punishment, whereas the time on conditional release shall not be calculated.
- (4) The provisions of paragraphs 1 through 3 of the present article shall apply also when a convicted person released on conditional release is punished for a criminal offence committed prior to his or her release on conditional release.



(5) If the convicted person released on conditional release is sentenced to imprisonment for a term not exceeding one year and if the court does not order the revocation of conditional release, the term of the release on conditional release shall be extended for the period of time the convicted person spent serving such sentence of imprisonment.

## **CHAPTER VII: CONFISCATION OF MATERIAL BENEFITS ACQUIRED BY THE COMMISSION OF CRIMINAL OFFENCES**

### **Article 82**

#### **GROUND FOR CONFISCATING MATERIAL BENEFITS**

(1) No person may retain a material benefit acquired by the commission of a criminal offence.

(2) The material benefit provided for in paragraph 1 of the present article shall be confiscated by the court judgment establishing the commission of a criminal offence, according to the terms provided for by the present Code.

### **Article 83**

#### **MEANS OF CONFISCATING MATERIAL BENEFITS**

(1) All money, objects of value and any other material benefit acquired by the commission of a criminal offence shall be confiscated from the perpetrator or when confiscation is not possible, the perpetrator shall be obliged to pay an amount of money corresponding to the material benefit acquired. Where appropriate, the court may allow the money to be paid in instalments over a period not exceeding two years.

(2) Any material benefit acquired by the commission of a criminal offence may be confiscated from the person to whom it has been transferred without compensation or with a compensation that does not correspond to the real value, if such person knew or might have known that the material benefit has been acquired by the commission of a criminal offence. When the material benefit has been transferred to close relatives, it shall be confiscated from them unless they prove that they have given compensation for its entire value.

### **Article 84**

#### **PROPERTY CLAIMS OF INJURED PARTIES**

(1) If property damages have been awarded to an injured party in criminal proceedings, the court shall order confiscation of material benefit if it exceeds the amount of property damages awarded to the injured party.

(2) An injured party who, in the course of criminal proceedings has been instructed in regard to his or her property claim to initiate civil litigation, can request compensation from the confiscated material benefit, provided that he or she commences civil litigation within six months from the day when the decision by which he or she was instructed to initiate civil litigation became final and provided that he or she seeks compensation from the confiscated material benefit within three months from the day when the court decision establishing his or her property claim became final.

(3) An injured party who fails to report a property claim during the course of criminal proceedings may demand compensation from the confiscated material benefit if he or she has initiated civil litigation within three months from the day when he or she found out about the judgment confiscating the material benefit and no longer than two years from the day the judgment on the confiscation of the material benefit became final and if he or she demanded compensation from the confiscated material benefit within three months from the day when the decision establishing his or her property claim became final.

#### Article 85

##### **CONFISCATING MATERIAL BENEFITS FROM LEGAL PERSONS**

When a business organization or legal person has acquired a material benefit by the commission of a criminal offence of a perpetrator, such material benefit shall be confiscated from the business organization or the legal person.

### **CHAPTER VIII: REHABILITATION AND DISCLOSURE OF INFORMATION FROM CRIMINAL RECORDS**

#### Article 86

##### **LEGAL STATUS OF CONVICTED PERSONS AFTER SERVICE, WAIVER OR PRESCRIPTION**

(1) After a punishment of imprisonment has been served, subjected to pardon or amnesty or prescribed by statutory limitation, a convicted person shall exercise and acquire all the rights provided for by law and other provisions, including those rights in the Constitutional Framework for Provisional Self-Government in Kosovo, unless otherwise provided in the present Code.

(2) The present article shall also apply to a convicted person released on conditional release.

#### Article 87

##### **LEGAL REHABILITATION**

(1) Upon legal rehabilitation, a punishment shall be expunged from the record of a convicted person and such person shall not be considered convicted.

(2) A punishment shall be expunged from the record of the convicted person upon the expiry of the following periods of time, by operation of law, if the convicted person does not commit a new criminal offence within this period:

- 1) One year from the day the judgment becomes final, in the case of a judicial admonition or a waiver of punishment;
- 2) One year from the day the verification period expires, in the case of a suspended sentence;

- 3) One year from the day a punishment is served, prescribed by statutory limitation or terminated by an amnesty, pardon or a change in the criminal law, in the case of a punishment of semi-liberty;
  - 4) Three years from the day a punishment is served, prescribed by statutory limitation or terminated by an amnesty, pardon or a change in the criminal law, in the case of a punishment of imprisonment of up to one year, a punishment of a fine or an accessory punishment;
  - 5) Five years from the day a punishment is served, prescribed by statutory limitation or terminated by an amnesty, pardon or a change in the criminal law, in the case of a punishment of imprisonment of up to three years;
  - 6) Eight years from the day a punishment is served, prescribed by statutory limitation or terminated by an amnesty, pardon or a change in the criminal law, in the case of a punishment of imprisonment of three to five years;
  - 7) Ten years from the day a punishment is served, prescribed by statutory limitation or terminated by an amnesty, pardon or a change in the criminal law, in the case of a punishment of imprisonment of five to ten years;
  - 8) Fifteen years from the day a punishment is served, prescribed by statutory limitation or terminated by an amnesty, pardon or a change in the criminal law, in the case of a punishment of imprisonment of ten to fifteen years.
- (3) A punishment of imprisonment of more than fifteen years or of long-term imprisonment shall not be expunged.
- (4) A punishment shall not be expunged during the duration of measures of mandatory treatment.

#### Article 88

##### **JUDICIAL REHABILITATION**

The court may, upon the request of the convicted person, decide to expunge a punishment from its records and consider the person not convicted if one-half of the relevant period of time provided for in Article 87(2) has elapsed and if the convicted person has not committed a new criminal offence during that time. When deciding to expunge a punishment, the court shall consider the conduct of the convicted person after serving the punishment, the nature of the criminal offence and other circumstances that may be important for evaluating the appropriateness of expunging the punishment.

#### Article 89

##### **DISCLOSURE OF INFORMATION FROM CRIMINAL RECORDS**

- (1) A criminal record shall contain the following information: personal data on the perpetrator of a criminal offence, information on the punishment, judicial admonition, measure of mandatory treatment or waiver of punishment imposed on the perpetrator,

changes in information on convictions that were entered in the criminal record, and information on sentences served and on the expunging of wrongful convictions.

(2) Information contained in a criminal record may be disclosed only with respect to convictions that have not been expunged and may be disclosed to the court, the public prosecutor's office and the police in connection with criminal proceedings conducted against the person who had been previously convicted, to competent authorities in charge of the execution of criminal sanctions and to competent authorities involved in the procedure of granting amnesty, pardon or expunging of sentences.

(3) Information from the criminal record may, upon the presentation of a justifiable request, be disclosed to public entities if certain accessory punishments (Article 63(2)) or measures of mandatory treatment are still in force.

(4) In cases where a conviction has been expunged, information on the conviction may only be revealed to the court, the public prosecutor's office and the police in relation to criminal proceedings conducted against a person whose previous conviction has been expunged.

(5) No person has the right to demand another person to present information as to whether he or she has been a convicted person.

(6) Any person, upon request, may obtain information on his or her criminal record when this information is necessary for the exercise of his or her rights.

## **CHAPTER IX: STATUTORY LIMITATION**

### **Article 90**

#### **STATUTORY LIMITATION ON CRIMINAL PROSECUTION**

(1) Unless otherwise provided for by the present Code, criminal prosecution may not be commenced after the following periods have elapsed:

- 1) Thirty five years from the commission of a criminal offence punishable by long-term imprisonment;
- 2) Fifteen years from the commission of a criminal offence punishable by imprisonment of more than ten years;
- 3) Ten years from the commission of a criminal offence punishable by imprisonment of more than five years;
- 4) Five years from the commission of a criminal offence punishable by imprisonment of more than three years;
- 5) Three years from the commission of a criminal offence punishable by imprisonment of more than one year; and

6) Two years from the commission of a criminal offence punishable by imprisonment for up to one year or punishment of a fine.

(2) When the law provides for more than one punishment for a criminal offence, the period of statutory limitation on criminal prosecution shall be determined according to the most serious punishment.

#### Article 91

#### **COMMENCEMENT AND INTERRUPTION OF PERIODS OF STATUTORY LIMITATION ON CRIMINAL PROSECUTION**

(1) The period of statutory limitation on criminal prosecution commences on the day when the criminal offence was committed.

(2) The period of statutory limitation does not run for any time during which prosecution cannot be initiated or continued by law.

(3) The period of statutory limitation is interrupted by every act undertaken for the purpose of criminal prosecution of the criminal offence committed.

(4) The period of statutory limitation is also interrupted if the perpetrator commits another criminal offence of equal or greater gravity than the previous criminal offence prior to the expiry of the period of statutory limitation.

(5) A new period of statutory limitation will commence after each interruption.

(6) Criminal prosecution shall be prohibited in every case when twice the period of statutory limitation has elapsed (absolute bar on criminal prosecution).

#### Article 92

#### **STATUTORY LIMITATION ON THE EXECUTION OF PUNISHMENTS**

Unless otherwise provided for by the present Code, the imposed punishment cannot be executed after the following periods have elapsed:

- 1) Thirty-five years from a sentence of long-term imprisonment;
- 2) Fifteen years from a sentence of imprisonment of more than ten years;
- 3) Ten years from a sentence of imprisonment of more than five years;
- 4) Five years from a sentence of imprisonment of more than three years;
- 5) Three years from a sentence of imprisonment of more than one year; and
- 6) Two years from a sentence of imprisonment of up to one year or of a fine.

## Article 93

**STATUTORY LIMITATION ON THE EXECUTION OF ACCESSORY PUNISHMENTS AND OF MEASURES OF MANDATORY TREATMENT**

- (1) The execution of an accessory punishment of a fine shall be prohibited after two years from the day when the judgment imposing this punishment becomes final.
- (2) The execution of other accessory punishments shall be prohibited after five years from the day when the judgment imposing this punishment becomes final.
- (3) The execution of a measure of mandatory treatment shall be prohibited after three years from the day when the judgment imposing this measure becomes final.

## Article 94

**COMMENCEMENT AND INTERRUPTION OF PERIODS OF STATUTORY LIMITATION ON THE EXECUTION OF PUNISHMENTS**

- (1) The period of statutory limitation on the execution of a punishment commences on the day when the judgment becomes final and, in the case of a revocation of an alternative punishment, on the day when the decision on revocation becomes final.
- (2) The period of statutory limitation does not run for any time during which the execution of the punishment may not be initiated by law.
- (3) The period of statutory limitation is interrupted by every act undertaken by a competent authority for the purpose of executing the punishment.
- (4) A new period of statutory limitation will commence after each interruption.
- (5) The execution of a punishment shall be prohibited in every case when twice the period of statutory limitation has elapsed (absolute bar on the execution of a punishment).
- (6) The provisions of paragraphs 2 through 5 of the present article shall also apply to prohibiting the execution of measures of mandatory treatment.

## Article 95

**NON-APPLICABILITY OF STATUTORY LIMITATION TO GENOCIDE AND WAR CRIMES**

No statutory limitation shall apply to the prosecution or execution of punishment of genocide, war crimes and crimes against humanity, as well as of other criminal offences to which statutory limitation cannot be applied under international law.

**CHAPTER X: AMNESTY AND PARDON**

## Article 96

**AMNESTY**

- (1) Persons who are covered by an act of amnesty are granted exemption from criminal prosecution, complete or partial exemption from the execution of a punishment, the

substitution of an imposed punishment with a less severe punishment or the expunging of punishment.

(2) Unless otherwise provided for in the respective act, an amnesty shall cover those criminal offences committed up to one day before the pronouncement of the act of amnesty.

#### Article 97

##### **PARDON**

By means of a pardon, specifically designated persons listed by name are granted exemption from criminal prosecution, complete or partial exemption from the execution of a punishment, the substitution of an imposed punishment with a less severe punishment or a suspended sentence or the expunging of punishment.

#### Article 98

##### **EFFECT OF AMNESTY AND PARDON ON THIRD PARTIES**

The granting of an amnesty or pardon shall not affect the rights of third parties which are based upon the judgment.

### **CHAPTER XI: APPLICABILITY OF CRIMINAL LAWS OF KOSOVO ACCORDING TO THE PLACE OF THE COMMISSION OF THE CRIMINAL OFFENCE**

#### Article 99

##### **APPLICABILITY OF CRIMINAL LAWS OF KOSOVO TO PERSONS COMMITTING CRIMINAL OFFENCES ON THE TERRITORY OF KOSOVO**

(1) The criminal laws of Kosovo apply to any person who commits a criminal offence on the territory of Kosovo.

(2) The criminal laws of Kosovo apply to any person who commits a criminal offence on a civil aircraft registered in Kosovo, regardless of the location of aircraft at the time the criminal offence was committed.

#### Article 100

##### **APPLICABILITY OF CRIMINAL LAWS OF KOSOVO TO SPECIFIC CRIMINAL OFFENCES COMMITTED OUTSIDE THE TERRITORY OF KOSOVO**

(1) The criminal laws of Kosovo apply to any person who commits a criminal offence provided for in Articles 116 - 121, 125 - 128, 132, 133(1), 134 - 137, 139(1), (2) and (3), 141 - 143 and 244 of the present Code outside the territory of Kosovo.

(2) The criminal laws of Kosovo apply to any person who commits a criminal offence provided for in Articles 110 - 113 of the present Code outside the territory of Kosovo where

such offence constitutes a threat to the security of Kosovo or its population, in whole or in part.

#### Article 101

##### **APPLICABILITY OF CRIMINAL LAWS OF KOSOVO TO RESIDENTS OF KOSOVO AND OTHER PERSONS COMMITTING CRIMINAL OFFENCES OUTSIDE THE TERRITORY OF KOSOVO**

- (1) The criminal laws of Kosovo apply to any person who is a resident of Kosovo if such person commits a criminal offence outside the territory of Kosovo and if this act is also punishable at the place of its commission.
- (2) The criminal laws of Kosovo apply also to any person who is not a foreign national if such person commits a criminal offence outside the territory of Kosovo and if this act is also punishable at the place of its commission.
- (3) Paragraph 1 of the present article shall also apply to any person who, subsequent to the commission of a criminal offence, becomes a resident of Kosovo.

#### Article 102

##### **APPLICABILITY OF CRIMINAL LAWS OF KOSOVO TO FOREIGN CITIZENS COMMITTING CRIMINAL OFFENCES COMMITTED OUTSIDE THE TERRITORY OF KOSOVO**

The criminal laws of Kosovo apply to any person who is a foreign national if:

- 1) Such person has committed a criminal offence outside the territory of Kosovo against a resident of Kosovo even when such a criminal offence is not referred to in Article 100 of the present Code;
- 2) This act is also punishable at the place of its commission; and
- 3) The perpetrator is found on the territory of Kosovo or has been transferred to Kosovo.

#### Article 103

##### **SPECIAL PREREQUISITES FOR PROSECUTION**

- (1) In the cases provided for in Article 99 of the present Code, if criminal proceedings have commenced but have not been completed in another jurisdiction, criminal proceedings shall be initiated in Kosovo only upon the approval of the Office of the Public Prosecutor of Kosovo.
- (2) In the cases provided for in Articles 101 and 102 of the present Code, criminal proceedings shall not be initiated if:
  - 1) The perpetrator has completely served the punishment imposed in another jurisdiction;



- 2) The perpetrator has been acquitted in another jurisdiction by a final court judgment or the punishment was waived or prescribed by statutory limitation; or
  - 3) Criminal proceedings for that criminal offence in another jurisdiction may only be initiated upon request of the injured party and such request has not been presented.
- (3) Criminal proceedings pursuant to Article 105 may be initiated in Kosovo only upon the approval of the Office of the Public Prosecutor of Kosovo.
- (4) In the cases provided for in Article 99, the criminal prosecution of a foreign citizen may be transferred to a foreign jurisdiction on the condition of reciprocity.

#### Article 104

#### **CALCULATING DETENTION AND PUNISHMENTS SERVED IN OTHER JURISDICTIONS**

The detention, deprivation of liberty during proceedings to transfer a person to another jurisdiction and the portion of a punishment served by the perpetrator pursuant to a judgment of a foreign court shall be calculated toward the punishment imposed by a court in Kosovo for that same act or, if the punishment imposed outside of Kosovo is not of the same character, the court shall calculate the punishment in a way it deems appropriate.

#### Article 105

#### **SPECIAL PROVISIONS FOR CHILDREN**

The present Code shall apply to persons under the age of 18 years to the extent that the applicable law on juvenile justice does not provide otherwise.

#### Article 106

#### **SPECIAL PROVISIONS FOR LEGAL PERSONS**

The criminal offences for which a legal person may be criminally liable, the criminal liability of a legal person, the criminal sanctions which may be applied to a legal person and special provisions governing criminal procedures applicable to a legal person shall be provided for separately by law.

### **CHAPTER XII: MEANING OF TERMS IN THE PRESENT CODE**

#### Article 107

- (1) The term "official person" means:
  - 1) A person elected or appointed to a public entity;
  - 2) An authorised person in a business organization or other legal person, who by law or by other provision issued in accordance with the law, exercises public authority, and who within this authority exercise specific duties;

- 3) A person who exercises specific official duties, based on authorisation provided for by law;
- 4) A person who is a member of UNMIK personnel or KFOR, without prejudice to the applicable privileges and immunities accorded to such person;
- 5) A person who is a member of personnel of liaison offices in Kosovo;
- 6) A person in a public international or supranational organization who is recognized as an official or other contracted employee within the meaning of the staff regulations of such organizations;
- 7) A judge, prosecutor or other official in an international tribunal which exercises jurisdiction over Kosovo.

(2) The term “responsible person” means an individual in a business organization or legal person who because of his or her function or special authorisation is entrusted with duties that are related to the implementation of the law or other provisions issued on the basis of law or of general rules of business organizations or other legal persons in managing or administering property, or are related to the management of production or other economic process or supervision of such process. An official person as provided for in paragraph 2 of the present article shall also be considered a responsible person, when the act in question is not provided for by provisions of the chapter on criminal offences against official duty and against other duty, or by the provisions on criminal offences of an official person provided for in another chapter of the present Code.

(3) When an official person or a responsible person is described as the perpetrator of a criminal offence, all persons referred to in paragraphs 1 or 2 of the present Article may be the perpetrators of such criminal offence, provided that it does not follow from the elements the criminal offence that the perpetrator may only be one of those persons.

(4) The term “legal person” means a joint stock company, a limited liability company, a limited partnership, a fund, an institution, a political or social organization, an association of persons as well as some other legal entity which, within the framework of its regular business generates or provides resources and disposes of them.

(5) The term “business organization” means any natural or legal person or group of such persons who are engaged in commerce.

(6) The term “document” means any object suitable or designated to serve as evidence of some fact relevant to legal relations.

(7) The term “money” means the metallic and paper currency that by law is in circulation in Kosovo or another jurisdiction.

(8) The term “symbols of value” includes foreign symbols of value.

(9) The term “movable object” includes energy produced or collected for lighting, heating, and circulating as well as telephone impulse and other impulses.

- (10) The term “force” includes the implementation of hypnosis or other means of intoxication for the purpose of bringing a person against his will into a state of unconsciousness or incapacitating him for resistance.
- (11) The term “motor vehicle” means any means of transportation equipped with an engine for use in street, water or air transportation.
- (12) The term “liaison office” means an office of a foreign government in Kosovo which contributes to the fulfilment of the mandate given to the civil and security presences under United Nations Security Council resolution 1244.
- (13) The term “liaison office personnel” means personnel assigned by foreign governments to serve with liaison offices to contribute to the fulfilment of the mandate given to the civil and security presences under the resolution. Such personnel, whose names shall be communicated to the Special Representative of the Secretary-General, do not include locally-recruited personnel.
- (14) The term “UNMIK personnel” means United Nations officials, experts and other persons assigned to serve in any of the components of UNMIK and holding an ID card, which indicates that the holder is a member of UNMIK, issued by or under the authority of the Special Representative of the Secretary-General.
- (15) The term “UNMIK” means the international civil presence established pursuant to Security Council resolution 1244 (1999) in the territory of Kosovo, integrating Police and Justice; the Interim Civil Administration (United Nations); Institution-Building (OSCE) and Reconstruction (EU) components.
- (16) The term “public entity” means an entity of the United Nations Interim Administration Mission in Kosovo or of the Provisional Institutions of Self-Government.
- (17) The term “Constitutional Framework” means the Constitutional Framework for Provisional Self-Government in Kosovo established pursuant to UNMIK Regulation No. 2001/9 of 15 May 2001 on a Constitutional Framework for Provisional Self-Government in Kosovo.
- (18) The term “KFOR” means the international military presence established pursuant to Security Council resolution 1244 (1999) in the territory of Kosovo composed by the North Atlantic Treaty Organization, including its member States, its subsidiary bodies, its military Headquarters and national elements or units, and non-NATO contributing countries.
- (19) The term “police” means the Civilian Police of UNMIK, also known as UNMIK Police, and the Kosovo Police Service.
- (20) The term “resident of Kosovo” means a person who is registered, or is eligible to be registered, as a habitual resident of Kosovo with the Central Civil Registry, in accordance with UNMIK Regulation No. 2000/13 of 17 March 2000 on the Central Civil Registry.
- (21) The term “child” means a person who is under the age of eighteen years.

- (22) The term “minor” means a person who is between the ages of fourteen and eighteen years.
- (23) The term “adult” means a person who has reached the age of eighteen years.
- (24) The term “domestic relationship” means the relationship between two persons:
- 1) Who are engaged or married to each other or are co-habiting with each other without marriage;
  - 2) Who share a primary household in common and who are related by blood, marriage, or adoption or are in a guardian relationship, including parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces, nephews, or cousins; or
  - 3) Who are the parents of a common child.
- (25) The term “territory of Kosovo” means the land surface and water space within its borders and boundaries, as well as the air space above these areas.
- (26) The term “boundary of Kosovo” means the line of division between Kosovo and Serbia, and between Kosovo and Montenegro;
- (27) The term “border of Kosovo” means the Kosovo section of the internationally recognized border between the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia (FYROM), and between the Federal Republic of Yugoslavia and the Republic of Albania;
- (28) The term “weapon” means an instrument designed, used or usable for inflicting bodily harm. It shall include, but not be limited to, all forms of ammunition, crossbows, bows and arrows, pepper spray, CS gas, blank firing weapons, replica weapons, stun guns, lasers and all categories of weapons set out in Schedule A annexed to UNMIK Regulation No. 2001/7 on the Authorisation of Possession of Weapons in Kosovo or similar weapons.
- (29) The term “dangerous drugs and psychotropic substances” shall mean those substances listed in the Official Gazette of the Socialist Federal Republic of Yugoslavia Nos. 70/78,14/81, 39/82, 28/85, 10/87, 53/88, 2/89.
- (30) The term “health care institution” means a hospital, an authorised mental health institution or another facility which is authorised to provide medical treatment, mental health treatment, and rehabilitation treatment for drug addiction or alcoholism.

**SPECIAL PART****CHAPTER XIII: CRIMINAL OFFENCES AGAINST KOSOVO AND ITS RESIDENTS**

Article 108

**ASSAULT ON LEGAL ORDER OF KOSOVO**

Whoever attempts, by use of violence or threat, to change the established legal order of Kosovo in the legislative, executive or judicial fields or to overthrow a public entity shall be punished by imprisonment of at least five years.

Article 109

**DEFINITION OF TERRORISM**

For the purposes of Articles 110 – 113 of the present Code:

(1) The term “terrorism” means the commission of one or more of the following offences with an intent to seriously intimidate a population, to unduly compel a public entity, government or international organization to do or abstain from doing any act, or to seriously destabilise or destroy the fundamental political, economic or social structures of Kosovo, a country or an international organization:

- 1) Murder;
- 2) Grievous bodily harm;
- 3) Hostage-taking;
- 4) Kidnapping;
- 5) Unlawful deprivation of liberty;
- 6) Pollution of drinking water or food products;
- 7) Causing general danger;
- 8) Destroying, damaging or removing public installations;
- 9) Unauthorised supply, transport, production, exchange or sale of weapons ;
- 10) Unauthorised ownership, control, possession or use of weapons;
- 11) Endangering internationally protected persons;
- 12) Endangering United Nations and associated personnel;
- 13) Hijacking aircraft;

- 14) Endangering civil aviation safety;
  - 15) Endangering maritime navigation safety;
  - 16) Endangering the safety of fixed platforms located on the continental shelf;
  - 17) Unauthorised appropriation, use, transfer or disposal of nuclear materials; or
  - 18) Threats to use or to commit theft or robbery of nuclear materials.
- (2) The term “funds” shall include assets of any kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evincing title to or interest in such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit;
- (3) The term “material resources” shall include lodging, safe houses, false documentation or identification, financial services, facilities, personnel, means of transportation, communications equipment and other physical assets, except necessary medicine.
- (4) The term “structured group” shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.
- (5) The term “terrorist group” means a structured group of more than two persons, established over a period of time and acting in concert to commit terrorism.
- (6) The term “support to a terrorist group” means recruiting members for a terrorist group, concealing the existence of a terrorist group or its members, obstructing the discovery or apprehension of a terrorist group or its members, or providing or collecting funds or other material resources with the intent, knowledge or reasonable grounds for belief that they will be used, in whole or in part, by a terrorist group.

#### Article 110

#### **COMMISSION OF TERRORISM**

- (1) Whoever commits an act of terrorism shall be punished by imprisonment of ten to twenty years.
- (2) When the offence provided for in paragraph 1 of the present article results in serious bodily injury, the perpetrator shall be punished by imprisonment of at least fifteen years.
- (3) When the offence provided for in paragraph 1 of the present article results in death, the perpetrator shall be punished by imprisonment of at least fifteen years or by long-term imprisonment.

## Article 111

**ASSISTANCE IN THE COMMISSION OF TERRORISM**

- (1) When the offence provided for in Article 303 or 304 of the present Code is committed in relation to terrorism, the perpetrator shall be punished by imprisonment of six months to five years.
- (2) When the offence provided for in Article 305 of the present Code is committed in relation to terrorism, the perpetrator shall be punished by imprisonment of three to ten years.
- (3) Whoever assists the perpetrator or his or her accomplice, after the commission of an act of terrorism, by providing funds or other material resources to such persons shall be punished by imprisonment of three to ten years.

## Article 112

**FACILITATION OF THE COMMISSION OF TERRORISM**

- (1) Whoever provides, solicits, collects or conceals funds or other material resources used, in whole or in part, for the purpose of committing terrorism shall be punished by imprisonment of five to fifteen years.
- (2) Whoever commits the offence provided for in paragraph 1 of the present article by negligence shall be punished by imprisonment of three to ten years.
- (3) Whoever recruits one or more persons for the purpose of committing terrorism shall be punished by imprisonment of five to fifteen years.
- (4) Whoever, for the purpose of committing terrorism, provides or receives instruction or training, including training in the construction, manufacture or use of weapons, shall be punished by imprisonment of five to fifteen years.
- (5) Whoever, for the purpose of committing terrorism, dispatches or transfers armed groups, equipment, weapons or other material resources into or out of Kosovo shall be punished by imprisonment of ten to fifteen years.

## Article 113

**ORGANIZATION, SUPPORT AND PARTICIPATION IN TERRORIST GROUPS**

- (1) Whoever organizes or directs a terrorist group shall be punished by a fine of up to 500,000 euro and by imprisonment of seven to twenty years.
- (2) Whoever provides support to a terrorist group shall be punished by imprisonment of three to ten years.
- (3) Whoever actively participates in a terrorist group shall be punished by imprisonment of one to ten years.

## Article 114

**UNAUTHORISED BORDER OR BOUNDARY CROSSINGS**

(1) Whoever crosses a border or boundary of Kosovo at any location other than at an authorised border or boundary crossing point shall be punished by a fine of 250 euro or by imprisonment of up to three months.

(2) When the offence provided for in paragraph 1 of the present Article while the perpetrator is accompanied by a child or another person, the perpetrator shall be punished by a fine of up to 2,500 euro or by imprisonment of up to one year.

(3) When the offence provided for in paragraph 1 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of up to two years:

- 1) The perpetrator was previously convicted of a criminal offence provided for in the present article;
- 2) During the course of apprehension, the perpetrator flees, attempts to flee, or otherwise resists apprehension by the police or KFOR;
- 3) The crossing is undertaken between the hours of 8:00 in the evening to 6:00 in the morning during the period from 1 April to 30 September, or between the hours of 6:00 in the evening to 6:00 in the morning during the period from 1 October to 31 March; or
- 4) The perpetrator is in possession of a weapon, ammunition or military clothing, supplies or equipment.

(4) A person is not criminally liable under the present article for crossing at an unauthorised border or boundary crossing point if the crossing occurred at a checkpoint that was temporarily established by COMKFOR.

(5) No criminal proceedings involving the offence provided for in the present article shall be initiated or continued against any bona fide refugee or internally displaced person coming from a territory where his or her life or body or fundamental freedoms or rights are threatened, provided that he or she has presented himself or herself to the police of KFOR within a reasonable time and shows good cause for crossing at an unauthorised border or boundary crossing point.

## Article 115

**INCITING NATIONAL, RACIAL, RELIGIOUS OR ETHNIC HATRED, DISCORD OR INTOLERANCE**

(1) Whoever publicly incites or publicly spreads hatred, discord or intolerance between national, racial, religious, ethnic or other such groups living in Kosovo in a manner which is likely to disturb public order shall be punished by a fine or by imprisonment of up to five years.



(2) Whoever commits the offence provided for in paragraph 1 of the present article in a systematic manner or by taking advantage of his or her position or authority or causes disorder, violence, or other grave consequences by the commission of such offence shall be punished by imprisonment up to eight years.

(3) Whoever commits the offence provided for in paragraph 1 by means of coercion, jeopardizing of safety, exposing national, racial, ethnic or religious symbols to derision, damaging the belongings of another person, or desecrating monuments or graves shall be punished by imprisonment of one to eight years.

(4) Whoever commits the offence provided for in paragraph 3 of the present article in a systematic manner or by taking advantage of his or her position or authority or causes disorder, violence or other grave consequences by the commission of such offence shall be punished by imprisonment of one to ten years.

#### **CHAPTER XIV: CRIMINAL OFFENCES AGAINST INTERNATIONAL LAW**

##### **Article 116 GENOCIDE**

Whoever, with the intent to destroy in whole or in part a national, ethnical, racial or religious group, as such, commits one or more of the following acts:

- (1) Killing members of the group;
- (2) Causing serious bodily or mental harm to members of the group;
- (3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (4) Imposing measures intended to prevent births within the group;
- (5) Forcibly transferring children of the group to another group

shall be punished by imprisonment of at least five years or by long-term imprisonment.

##### **Article 117 CRIMES AGAINST HUMANITY**

(1) Whoever commits one or more of the following offences knowing that they are a part of a widespread or systematic attack directed against any civilian population:

- 1) Murder;
- 2) Extermination;
- 3) Enslavement;

- 4) Deportation or forcible transfer of population;
- 5) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- 6) Torture;
- 7) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity;
- 8) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognised as impermissible under international law, in connection with the offences provided for in the present article and Articles 116, 118 - 121;
- 9) Enforced disappearance of persons;
- 10) The crime of apartheid; or
- 11) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health

shall be punished by imprisonment of at least five years or by long-term imprisonment.

- (2) For the purposes of the present article,
  - 1) The term “attack directed against any civilian population” means a course of conduct involving the multiple commission of offences provided for in paragraph 1 of the present article against any civilian population, pursuant to or in furtherance of a state or organizational policy to commit such attack.
  - 2) The term “extermination” includes the intentional infliction of conditions of life, *inter alia*, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.
  - 3) The term “enslavement” means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.
  - 4) The term “deportation or forcible transfer of population” means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.
  - 5) The term “torture” means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the perpetrator; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions.

- 6) The term “forced pregnancy” means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.
- 7) The term “persecution” means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.
- 8) The term “crime of apartheid” means inhumane acts of a character similar to those provided for in paragraph 1 of the present article, committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.
- 9) The term “enforced disappearance of persons” means the arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a state or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
- 10) The term “gender” refers to the two sexes, male and female, within the context of society.

#### Article 118

#### **WAR CRIMES IN GRAVE BREACH OF THE GENEVA CONVENTIONS**

(1) Whoever commits a grave breach of the Geneva Conventions of 12 August 1949 shall be punished by imprisonment of at least five years or by long-term imprisonment, in the case of the offence provided for in subparagraphs 4, 5 or 7 of paragraph 2 of the present article, or by imprisonment of at least ten years or by long-term imprisonment, in the case of the offence provided for in subparagraphs 1, 2, 3, 6 or 8 of paragraph 2 of the present article.

(2) A grave breach of the Geneva Conventions of 12 August 1949 means one or more of the following acts committed during war time or armed conflict against persons or property protected under the provisions of the relevant Geneva Convention:

- 1) Wilful killing;
- 2) Torture or inhuman treatment, including biological experiments;
- 3) Wilfully causing great suffering or serious injury to body or health;
- 4) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wilfully;
- 5) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;

- 6) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
- 7) Unlawful deportation or transfer or unlawful confinement; and
- 8) Taking of hostages.

Article 119

**WAR CRIMES IN SERIOUS VIOLATION OF LAWS AND CUSTOMS APPLICABLE IN INTERNATIONAL ARMED CONFLICT**

(1) Whoever commits a serious violation of the laws and customs applicable in international armed conflicts, within the established framework of international law, shall be punished by imprisonment of at least five years or by long-term imprisonment, in the case of the offence provided for in subparagraph 9, 13, 14, 15, 16, 26, 29, 30 or 31 of paragraph 2 of the present article, or by imprisonment of at least ten years or by long-term imprisonment, in the case of the offence provided for in subparagraphs 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27 or 28 of paragraph 2 of the present article.

(2) A serious violation of the laws and customs applicable in international armed conflict, within the established framework of international law, means one or more of the following acts:

- 1) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- 2) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- 3) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- 4) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- 5) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- 6) Killing or wounding a combatant who, having laid down his or her arms or having no longer means of defence, has surrendered at discretion;

- 7) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
- 8) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- 9) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- 10) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her or her interest, and which cause death to or seriously endanger the health of such person or persons;
- 11) Killing or wounding treacherously individuals belonging to the hostile nation or army;
- 12) Declaring that no quarter will be given;
- 13) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
- 14) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
- 15) Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
- 16) Pillaging a town or place, even when taken by assault;
- 17) Employing poison or poisoned weapons;
- 18) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- 19) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- 20) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, including chemical weapons, biological weapons, non-detectable fragments,

- blinding laser weapons or booby traps as defined in Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects of 10 October 1980;
- 21) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
  - 22) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
  - 23) Utilising the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
  - 24) Intentionally directing attacks against buildings, material, medical units and transport, religious personnel and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
  - 25) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
  - 26) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities;
  - 27) Intentionally launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects;
  - 28) Intentionally launching an indiscriminate attack where such attack is not directed at a specific military objective, employs a method or means of combat which cannot be directed at a specific military objective or employs a method or means of combat the effects of which cannot be limited as required by Protocol I Additional to the Geneva Convention of 12 August 1949 and consequently, is of a nature to strike military objectives and civilians or civilian objects without distinction;
  - 29) Enslavement and slave trade;
  - 30) Imposing collective punishments;
  - 31) Pressuring the population of an occupied territory to change their nationality or to take an oath to a hostile Power.

## Article 120

**WAR CRIMES IN SERIOUS VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS**

- (1) Whoever commits a serious violation of Article 3 common to the four Geneva Conventions of 12 August 1949 shall be punished by imprisonment of at least five years or by long-term imprisonment.
- (2) A serious violation of Article 3 common to the four Geneva Conventions of 12 August 1949 means one or more of the following acts committed in the context of an armed conflict not of an international character against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause:
- 1) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
  - 2) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
  - 3) Taking of hostages;
  - 4) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
- (3) The present article shall apply to armed conflicts not of an international character and does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

## Article 121

**WAR CRIMES IN SERIOUS VIOLATION OF LAWS AND CUSTOMS APPLICABLE IN ARMED CONFLICT NOT OF AN INTERNATIONAL CHARACTER**

- (1) Whoever commits a serious violation of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, shall be punished by imprisonment of at least five years or by long-term imprisonment, in the case of the offence provided for in subparagraphs 4, 5, 7, 12, 23 or 24 of paragraph 2 of the present article, and by imprisonment of at least ten years or by long-term imprisonment, in the case of the offences provided for in subparagraphs 1, 2, 3, 6, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21 or 22 of paragraph 2 of the present article.
- (2) A serious violation of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, means one or more of the following acts:
- 1) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

- 2) Intentionally directing attacks against buildings, material, medical units and transport, religious personnel and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- 3) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- 4) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- 5) Pillaging a town or place, even when taken by assault;
- 6) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence also constituting a serious violation of Article 3 common to the four Geneva Conventions;
- 7) Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
- 8) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- 9) Killing or wounding treacherously a combatant adversary;
- 10) Declaring that no quarter will be given;
- 11) Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her or her interest, and which cause death to or seriously endanger the health of such person or persons;
- 12) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
- 13) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- 14) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- 15) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which



would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

- 16) Intentionally launching an indiscriminate attack where such attack is not directed at a specific military objective, employs a method or means of combat which cannot be directed at a specific military objective or employs a method or means of combat the effects of which cannot be limited and consequently, is of a nature to strike military objectives and civilians or civilian objects without distinction;
- 17) Utilising the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
- 18) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
- 19) Employing poison or poisoned weapons;
- 20) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- 21) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- 22) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, including chemical weapons, biological weapons, non-detectable fragments, blinding laser weapons, booby traps as defined in Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects of 10 October 1980;
- 23) Enslavement and slave trade;
- 24) Imposing collective punishments.

(3) The present article applies to armed conflicts not of an international character and does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a state when there is protracted armed conflict between the organs of authority and organized armed groups or between such groups.

## Article 122

**ATTACKS IN ARMED CONFLICTS NOT OF AN INTERNATIONAL CHARACTER AGAINST INSTALLATIONS CONTAINING DANGEROUS FORCES**

Whoever, in violation of the laws and customs applicable in armed conflicts not of an international character, intentionally launches an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects shall be punished by imprisonment of at least ten years or by long-term imprisonment.

## Article 123

**CONSCRIPTION OR ENLISTING OF PERSONS BETWEEN THE AGE OF FIFTEEN AND EIGHTEEN YEARS IN ARMED CONFLICT**

Whoever conscripts or enlists persons between the ages of fifteen and eighteen years into armed forces or groups or uses them to participate actively in hostilities in an armed conflict of an international nature or an armed conflict not of an international character shall be punished by imprisonment of six months to five years.

## Article 124

**EMPLOYMENT OF PROHIBITED MEANS OR METHODS OF WARFARE**

(1) Whoever during armed conflict employs weapons, projectiles and material and methods of warfare which are not provided for in Article 119(2)(20) or Article 121(2)(22) of this Code but which are in violation of the international law of armed conflict shall be punished by imprisonment of at least five years.

(2) When the offence provided for in paragraph 1 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of at least five years or by long-term imprisonment.

## Article 125

**UNJUSTIFIED DELAY IN REPATRIATING PRISONERS OF WAR OR CIVILIANS**

Whoever, in violation of the rules of international law, orders or imposes an unjustified delay in repatriating prisoners of war or civilians after the termination of a war or armed conflict shall be punished by imprisonment of six months to five years.

## Article 126

**UNLAWFUL APPROPRIATION OF OBJECTS FROM THE DECEASED OR WOUNDED ON THE BATTLEFIELD**

(1) Whoever orders the unlawful appropriation of the belongings of the deceased or wounded on the battlefield or carries out such appropriation shall be punished by imprisonment of six months to five years.

(2) When the offence provided for in paragraph 1 of the present article in a barbaric manner, the perpetrator shall be punished by imprisonment of one to ten years.

## Article 127

**ENDANGERING NEGOTIATORS**

Whoever, in violation of international law, in a time of war or armed conflict, insults, mistreats or restrains a negotiator or his or her escort, prevents their return, or in some other way violates their inviolability shall be punished by imprisonment of six months to five years.

## Article 128

**ORGANIZATION OF GROUPS TO COMMIT GENOCIDE, CRIMES AGAINST HUMANITY AND WAR CRIMES**

(1) Whoever organizes a group for the purpose of committing any of the criminal offences provided for in Articles 116 - 124 of the present Code shall be punished by imprisonment of one to ten years.

(2) Whoever becomes a member of a group provided for in paragraph 1 of the present article shall be punished by imprisonment of one to five years.

(3) A member of a group provided for in paragraph 1 of the present article who exposes the group before he or she has committed a criminal offence on account of the group or has assisted the group in committing a criminal offence shall be punished by imprisonment of up to three years, but the court may also waive the punishment.

## Article 129

**COMMAND RESPONSIBILITY**

(1) A military commander or person effectively acting as a military commander shall be criminally liable for the crimes referred to in Articles 116 – 124 of the present Code committed by forces under his or her effective command and control, or effective authority and control, as a result of his or her failure to exercise control properly over such forces, where:

- 1) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
- 2) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

(2) With respect to superior and subordinate relationships not described in paragraph 1 of the present article, a superior shall be criminally liable for the crimes referred to in Articles 116 - 127 of the present Code committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

- 1) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;

- 2) The crimes concerned activities that were within the effective responsibility and control of the superior; and
- 3) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

#### Article 130

##### **INSTIGATING WAR OF AGGRESSION OR ARMED CONFLICT**

Whoever publicly calls for or instigates a war of aggression or an armed conflict, in a meeting or by means of publications, audio-visual recordings or any other means, shall be punished by imprisonment of one to three years.

#### Article 131

##### **MISUSE OF INTERNATIONAL EMBLEMS**

Whoever misuses or carries without authorisation the flag or emblem of the United Nations or a Red Cross or Red Crescent Society or symbols corresponding to them or any other international emblem recognized as protecting certain objects from military operations shall be punished by imprisonment of up to three years.

#### Article 132

##### **HIJACKING AIRCRAFT**

(1) Whoever, in violation of the Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970, on board an aircraft in flight, unlawfully seizes or exercises control of the aircraft, by force or threat thereof or by any other form of intimidation, shall be punished by imprisonment of at least one year.

(2) When the offence provided for in paragraph 1 of the present article results in the death of one or more persons or the destruction of the airplane, the perpetrator shall be punished by imprisonment of at least five years.

(3) Whoever intentionally deprives another person of his or her life in committing the offence provided for in paragraph 1 of the present article shall be punished by imprisonment of at least ten years or by long-term imprisonment.

#### Article 133

##### **ENDANGERING CIVIL AVIATION SAFETY**

(1) Whoever, in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971, commits an act endangering the safety of civil aviation shall be punished by imprisonment of one to ten years.

(2) An act endangering the safety of civil aviation means one or more of the following acts:

- 1) Performing an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft;
  - 2) Destroying an aircraft in service or causing damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;
  - 3) Placing or causing to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight;
  - 4) Destroying or damaging air navigation facilities or interfering with their operation, if any such act is likely to endanger the safety of aircraft in flight;
  - 5) Communicating information which the perpetrator knows to be false, thereby endangering the safety of an aircraft in flight;
  - 6) Performing an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death;
  - 7) Destroying or seriously damaging the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupting the services of the airport, if such an act endangers or is likely to endanger safety at that airport.
- (3) Whoever operates an aircraft in an irregular manner or fails to discharge duties or supervision in relation to the safety of civil aviation shall be punished by imprisonment of one to ten years.
- (4) When the offence provided for in paragraph 1 or 3 of the present article results in the death of one or more persons or the destruction of the aircraft, the perpetrator shall be punished by imprisonment of at least ten years.
- (5) Whoever intentionally deprives another person of his or her life in committing the offence provided for in paragraph 1 or 3 of the present article shall be punished by imprisonment of at least ten years or by long-term imprisonment.
- (6) Whoever commits the offence provided for in paragraph 1 or 3 of the present article by negligence shall be punished by imprisonment of up to three years.
- (7) When the offence provided for in paragraph 6 of the present article results in the death of one or more persons or the destruction of the aircraft, the perpetrator shall be punished by imprisonment of one to eight years.

## Article 134

**ENDANGERING MARITIME NAVIGATION SAFETY**

(1) Whoever, in violation of the Convention for the Suppression of Unlawful Acts Against the Safety Of Maritime Navigation of 10 March 1988, commits an act endangering the safety of maritime navigation shall be punished by imprisonment of one to ten years.

(2) An act endangering the safety of maritime navigation means one or more of the following acts:

- 1) Seizing or exercising control over a ship by force or threat thereof or any other form of intimidation;
- 2) Performing an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;
- 3) Destroying a ship or causing damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;
- 4) Placing or causing to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;
- 5) Destroying or seriously damaging maritime navigational facilities or seriously interfering with their operation, if any such act is likely to endanger the safe navigation of a ship;
- 6) Communicating information which the perpetrator knows to be false, thereby endangering the safe navigation of a ship.

(3) When the offence provided for in paragraph 1 of the present article results in the death of one or more persons or the destruction of the ship, the perpetrator shall be punished by imprisonment of at least ten years.

(4) Whoever intentionally deprives another person of his or her life in committing the offence provided for in paragraph 1 of the present article shall be punished by imprisonment of at least ten years or by long-term imprisonment.

(5) Whoever commits the offence provided for in paragraph 1 of the present article by negligence shall be punished by imprisonment of up to three years.

(6) When the offence provided for in paragraph 5 of the present article results in the death of one or more persons or the destruction of the ship, the perpetrator shall be punished by imprisonment of one to eight years.

## Article 135

**ENDANGERING THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF**

- (1) Whoever, in violation of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf of 10 March 1988, commits an act endangering the safety of a fixed platform located on the continental shelf shall be punished by imprisonment of one to ten years.
- (2) An act endangering the safety of a fixed platform located on the continental shelf means one or more of the following acts:
- 1) Seizing or exercising control over a fixed platform by force or threat thereof or any other form of intimidation;
  - 2) Performing an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;
  - 3) Destroying a fixed platform or causing damage to it which is likely to endanger its safety;
  - 4) Placing or causing to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety.
- (3) When the offence provided for in paragraph 1 of the present article results in the death of one or more persons or the destruction of a fixed platform, the perpetrator shall be punished by imprisonment of at least ten years.
- (4) Whoever intentionally deprives another person of his or her life in committing the offence provided for in paragraph 1 of the present article shall be punished by imprisonment of at least ten years or by long-term imprisonment.
- (5) Whoever commits the offence provided for in paragraph 1 of the present article by negligence shall be punished by imprisonment of up to three years of imprisonment.
- (6) When the offence provided for in paragraph 5 of the present article results in the death of one or more persons or the destruction of a fixed platform, the perpetrator shall be punished by imprisonment of one to eight years.
- (7) Whoever, with the intent to compel a natural or legal person to do or abstain from doing any act, threatens to commit an offence provided for in subparagraph 2 or 3 of paragraph 2 of the present Article shall be punished by imprisonment of one to eight years.
- (8) For the purposes of the present article, the term "fixed platform" means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

## Article 136

**PIRACY**

(1) A crew member or passenger in a vessel or aircraft, except for a military or public vessel or aircraft who, in violation of the rules of international law and with the intent to obtain for himself or herself or another person a material or non-material benefit or to seriously wound another person, commits unlawful violence against another vessel or aircraft or against a person or an object on board such vessel or aircraft on the high seas or on territory that is not under the jurisdiction of any country, shall be punished by imprisonment of one to ten years.

(2) Action performed by a crew member of a military or public vessel or aircraft who has rebelled and has usurped authority on a vessel or aircraft also constitutes an offence under paragraph 1 of the present article.

## Article 137

**ESTABLISHING SLAVERY, SLAVERY-LIKE CONDITIONS AND FORCED LABOUR**

(1) Whoever, in violation of the rules of international law, holds, maintains, places, purchases, or sells another person in slavery, slavery-like conditions or forced labour, which includes holding a person in ownership, denying a person the fruits of his or her labour or denying a person the freedom to change his or her status or work conditions, shall be punished by imprisonment of two to ten years and a fine.

(2) Whoever, in violation of the rules of international law, for the purpose of committing the offences provided for in paragraph 1 of the present article incites another person to renounce his or her freedom or brokers in the buying or selling of another person, shall be punished as provided for in paragraph 1 of the present article.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed against a person with whom the perpetrator has a domestic relationship, the perpetrator shall be punished by imprisonment of three to ten years.

(4) When the offence provided for in paragraph 1 or 2 of the present article is committed against a child, the perpetrator shall be punished by imprisonment of three to fifteen years.

(5) When the offence provided for in the present article is committed by an official person in the exercise of his or her duties, the perpetrator shall be punished by imprisonment of five to twelve years, in the case of the offence provided for in paragraph 1, 2 or 3 or by imprisonment of five to twenty years, in the case of the offence provided for in paragraph 4.

## Article 138

**SMUGGLING OF MIGRANTS**

(1) Whoever engages in the smuggling of migrants shall be punished by imprisonment of two to twelve years.



- (2) Whoever produces, procures, provides or possesses a fraudulent travel or identity document in order to enable the smuggling of migrants and to obtain, directly or indirectly, a financial or other material benefit shall be punished by imprisonment of up to five years.
- (3) Whoever enables a person who is not a resident of Kosovo to remain in Kosovo or a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary legal requirements to remain by the means provided for in paragraph 2 of the present article or by any other illegal means shall be punished by a fine or by imprisonment of up to one year.
- (4) An attempt to commit the offence provided for in paragraph 3 of the present article shall be punishable.
- (5) Whoever organizes or directs other persons to commit the offence provided for in paragraph 1, 2 or 3 shall be punished by a fine of up to 500,000 euro and by imprisonment of seven to twenty years.
- (6) When the offence provided for in paragraph 1, 2 or 3 of the present article is committed by a perpetrator acting as a member of a group or in a manner that endangers, or is likely to endanger, the lives or safety of the migrants concerned or that entails inhuman or degrading treatment, including exploitation, of such migrants, the perpetrator shall be punished by imprisonment of two to ten years.
- (7) For the purposes of the present article,
- 1) The term “smuggling of migrants” means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into Kosovo, where such person is not a resident of Kosovo, or into a State of which such person is not a national or a permanent resident.
  - 2) The term “illegal entry” means crossing a border or a boundary of Kosovo without complying with the necessary requirements for legal entry into Kosovo or crossing the borders of a State without complying with the necessary requirements for legal entry into such State.
  - 3) The term “fraudulent travel or identity document” shall mean any travel or identity document:
    - (i) That has been falsely made or altered in some material way by any person other than a person or agency lawfully authorised to make or issue the travel or identity document;
    - (ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
    - (iii) That is being used by a person other than the rightful holder.
- (8) A person is not criminally liable under the present article if he or she is a migrant who is the object of the offence provided for in the present article.

## Article 139

**TRAFFICKING IN PERSONS**

- (1) Whoever engages in trafficking in persons shall be punished by imprisonment of two to twelve years.
- (2) When the offence provided for in paragraph 1 of the present article is committed against a person under the age of 18 years, the perpetrator shall be punished by imprisonment of three to fifteen years.
- (3) Whoever organizes a group of persons to commit the offence in paragraph 1 of the present article shall be punished by a fine of up to 500,000 euro and by imprisonment of seven to twenty years.
- (4) Whoever negligently facilitates the commission of trafficking in persons shall be punished by imprisonment of six months to five years.
- (5) Whoever uses or procures the sexual services of a person with the knowledge that such person is a victim of trafficking shall be punished by imprisonment of three months to five years.
- (6) When the offence provided for in paragraph 5 of the present article is committed against a person under the age of 18 years, the perpetrator shall be punished by imprisonment of two to ten years.
- (7) When the offence provided for in the present article is committed by an official person in the exercise of his or her duties, the perpetrator shall be punished by imprisonment of five to fifteen years, in the case of the offence provided for in paragraph 1 or 2, by imprisonment of at least ten years, in the case of the offence provided for in paragraph 3, by imprisonment of two to seven years in the case of the offence provided for in paragraphs 4 or 5 or by imprisonment of five to twelve years, in the case of the offence provided for in paragraph 6.
- (8) For the purposes of the present article and Article 140,
  - 1) The term “trafficking in persons” means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
  - 2) The term “exploitation” as used in subparagraph 1 of the present paragraph shall include, but not be limited to, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
  - 3) The consent of a victim of trafficking in persons to the intended exploitation shall be irrelevant where any of the means set forth in subparagraph 1 of the present paragraph have been used against such victim.

- 4) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph 1 of this paragraph.

#### Article 140

#### **WITHHOLDING IDENTITY PAPERS OF VICTIMS OF SLAVERY OR TRAFFICKING IN PERSONS**

(1) Whoever, acting or purporting to act as another person’s employer, manager, contractor or employment agent, withholds that other person’s personal identification documents or passport knowing that the person is a victim of criminal offences provided for in Articles 137 and 139, shall be punished by imprisonment of one to five years.

(2) When the offence provided for in paragraph 1 of the present article is committed by an official person in the exercise of his or her duties, the perpetrator shall be punished by imprisonment of three to seven years.

#### Article 141

#### **ENDANGERING INTERNATIONALLY PROTECTED PERSONS**

(1) Whoever intentionally deprives an internationally protected person of his or her life shall be punished by imprisonment of at least seven years.

(2) Whoever engages in the kidnapping or attack on the person or liberty of an internationally protected person shall be punished by imprisonment of one to ten years.

(3) Whoever engages in a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person, where such attack is likely to endanger his or her person or liberty shall be punished by imprisonment of one to ten years.

(4) Whoever makes a serious threat to commit the offence provided for in paragraph 1, 2 or 3 of the present article shall be punished by imprisonment of one to five years.

(5) Whoever organizes or orders another person to commit the offence provided for in paragraph 1, 2 or 3 of the present article shall be punished by imprisonment of three to five years.

(6) When the offence in paragraph 2 or 3 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of at least five years.

(7) For the purposes of the present article, the term “internationally protected person” means:

- 1) A Head of State, including any person performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his or her family who accompany him or her;
- 2) Any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time

when and in the place where a crime against him or her, his or her official premises, his or her private accommodation or means of transport is committed, is entitled pursuant to international law to special protection from any attack on his or her person, freedom or dignity, as well as members of his or her family forming part of his or her household.

#### Article 142

#### **ENDANGERING UNITED NATIONS AND ASSOCIATED PERSONNEL**

- (1) Whoever intentionally deprives United Nations or associated personnel of his or her life shall be punished by imprisonment of at least seven years.
- (2) Whoever engages in the kidnapping or attack on the person or liberty of United Nations or associated personnel shall be punished by imprisonment of one to ten years.
- (3) Whoever engages in a violent attack upon the official premises, the private accommodation or the means of transport of United Nations or associated personnel, where such attack is likely to endanger his or her person or liberty shall be punished by imprisonment of one to ten years.
- (4) Whoever makes a serious threat to commit the offence in paragraph 1, 2 or 3 of the present article shall be punished by imprisonment of one to five years.
- (5) When the offence in paragraph 2 or 3 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of at least five years.
- (6) For the purposes of the present article,
  - 1) The term “United Nations personnel” means:
    - (i) Persons engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation; or
    - (ii) Other officials and experts on mission of the United Nations or its specialized agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a United Nations operation is being conducted.
  - 2) The term “associated personnel” means:
    - (i) Persons assigned by a Government or an intergovernmental organization with the agreement of the competent organ of the United Nations;
    - (ii) Persons engaged by the Secretary-General of the United Nations or by a specialized agency or by the International Atomic Energy Agency; or
    - (iii) Persons deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations or with a specialized agency or with the International Atomic Energy Agency, to carry

out activities in support of the fulfilment of the mandate of a United Nations operation.

- 3) The term “United Nations operation” means an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control:
- (i) Where the operation is for the purpose of maintaining or restoring international peace and security; or
  - (ii) Where the Security Council or the General Assembly has declared, for the purposes of the Convention on the Safety of United Nations and Associated Personnel of 9 December 1994, that there exists an exceptional risk to the safety of the personnel participating in the operation.

#### Article 143

##### **HOSTAGE-TAKING**

- (1) Whoever seizes or detains and threatens to kill, to injure or to continue to detain another person with the intent to compel a natural or legal person or a group of persons, to do or abstain from doing an act as an explicit or implicit condition for the release of the other person shall be punished by imprisonment of at least three years.
- (2) When the offence in paragraph 1 of the present article results in the death of the hostage, the perpetrator shall be punished by imprisonment of at least five years.
- (3) Whoever intentionally deprives the hostage of his or her life in committing an offence provided for in paragraph 1 of the present article shall be punished by imprisonment of at least ten years or by long-term imprisonment.

#### Article 144

##### **UNLAWFUL APPROPRIATION, USE, TRANSFER AND DISPOSAL OF NUCLEAR MATERIAL**

- (1) Whoever, without authorisation, receives, possesses, uses, transfers, alters, disposes or disperses nuclear material and causes or is likely to cause death or serious injury to any person or substantial damage to property shall be punished by imprisonment of one to eight years.
- (2) When the offence provided for in paragraph 1 of the present article results in the death of one or more persons or substantial material damage, the perpetrator shall be punished by imprisonment of at least five years or by long-term imprisonment.
- (3) Whoever commits the offence provided for in paragraph 1 or 2 of the present article by negligence shall be punished by imprisonment of up to seven years, in the case of the offence provided for in paragraph 1 and by imprisonment of at least three years, in the case of the offence provided for in paragraph 2.

(4) Whoever commits theft, robbery or misappropriation of nuclear material or makes a demand for nuclear material by threat or use of force or by any other form of intimidation shall be punished by imprisonment of at least five years.

Article 145

**THREATS TO USE OR COMMIT THEFT OR ROBBERY OF NUCLEAR MATERIAL**

(1) Whoever threatens to use nuclear material to cause death or serious injury to any person or substantial property damage shall be punished by imprisonment of one to eight years.

(2) Whoever, with the intent to compel a natural or legal person to do or abstain from doing an act, threatens to commit theft or robbery of nuclear material shall be punished by imprisonment of five to fifteen years.

(3) When the offence provided for in paragraph 2 of the present article results in the death of one or more persons or substantial material damage, the perpetrator shall be punished by imprisonment of at least five years or by long-term imprisonment.

**CHAPTER XV: CRIMINAL OFFENCES AGAINST LIFE AND BODY**

Article 146

**MURDER**

Whoever deprives another person of his or her life shall be punished by imprisonment of at least five years.

Article 147

**AGGRAVATED MURDER**

A punishment of imprisonment of at least ten years or of long-term imprisonment shall be imposed on any person who:

- 1) Deprives a child of his or her life;
- 2) Deprives a female person of her life knowing that she is pregnant;
- 3) Deprives another person of his or her life in a cruel or deceitful way;
- 4) Deprives another person of his or her life and in doing so intentionally endangers the life of one or more persons;
- 5) Deprives another person of his or her life while acting ruthlessly and violently;
- 6) Deprives another person of his or her life for racial, national or religious motives;
- 7) Deprives another person of his or her life for the purpose of obtaining a material benefit;

- 8) Deprives another person of his or her life for the purpose of committing or concealing another criminal offence;
- 9) Deprives another person of his or her life because of unscrupulous revenge or other base motives;
- 10) Deprives another person of his or her life at the time when such person is executing his or her duty of protecting legal order, safeguarding persons or property, uncovering criminal offences, apprehending a perpetrator of a criminal offence, guarding persons deprived of liberty or keeping public order and peace;
- 11) Intentionally commits two or more murders, except for the offences provided for in Articles 148 and 150 of the present Code; or
- 12) Deprives another person of his or her life and has previously been convicted of murder, except for the offences provided for in Articles 148 and 150 of the present Code.

#### Article 148

##### **MURDER COMMITTED IN A STATE OF MENTAL DISTRESS**

Whoever deprives another person of his or her life in a state of mental distress after being brought, through no fault of his or her own, into a state of severe shock caused by an attack, maltreatment or grave insult by the murdered person, shall be punished by imprisonment of one to ten years.

#### Article 149

##### **NEGLIGENT MURDER**

Whoever deprives another person of his or her life by negligence shall be punished by imprisonment of six months to five years.

#### Article 150

##### **MURDER OF INFANTS DURING BIRTH**

A mother who deprives her infant of his or her life during or immediately after birth while affected by a disorder caused by birth shall be punished by imprisonment of three months to three years.

#### Article 151

##### **INCITING SUICIDE AND ASSISTING IN SUICIDE**

- (1) Whoever incites or assists another person to commit suicide, and the suicide is committed, shall be punished by imprisonment of three months to five years.
- (2) Whoever commits the offence provided for in paragraph 1 of the present article against a minor or a person whose capability to understand the gravity of his or her act or to

control his or her behaviour was substantially diminished shall be punished by imprisonment of one to ten years.

(3) Whoever commits the offence provided for in paragraph 1 of the present article against a person under the age of fourteen years or against a person who was incapable of understanding the gravity of his or her act or controlling his or her behaviour shall be punished in accordance with Article 146 of the present Code.

(4) Whoever treats another person in a subordinate position in a cruel or inhumane way and thereby causes such person to commit suicide shall be punished by imprisonment of six months to five years.

(5) If, as a result of an offence provided for in paragraphs 1 through 4 of the present article, suicide has only been attempted, the court may punish the perpetrator more leniently.

#### Article 152

##### **IMPERMISSIBLE TERMINATION OF PREGNANCY**

(1) Whoever, in contravention with the legal provisions on the termination of pregnancy and with the consent of the pregnant woman, terminates her pregnancy, commences to terminate her pregnancy, or assists her in terminating her pregnancy shall be punished by imprisonment of three months to three years.

(2) Whoever terminates or commences to terminate a pregnancy without the consent of the pregnant woman shall be punished by imprisonment of one to eight years.

(3) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury, serious impairment to health or the death of the pregnant woman, the perpetrator shall be punished by imprisonment of six months to five years, in the case of the offence provided for in paragraph 1 or by imprisonment of at least three years, in the case of the offence provided for in paragraph 2.

#### Article 153

##### **LIGHT BODILY HARM**

(1) Whoever inflicts bodily harm upon another person which results in:

- 1) Temporarily damaging or weakening an organ or a part of the body of the other person;
- 2) Temporarily diminishing the capacity of the other person to work;
- 3) Temporarily disfiguring the other person; or
- 4) Temporarily impairing the health of the other person

shall be punished by a fine or by imprisonment of up to one year.



(2) When the offence provided for in paragraph 1 of the present article is committed with a weapon, a dangerous instrument or another object capable of causing serious bodily injury or a serious impairment to health, the perpetrator shall be punished by imprisonment of up to three years.

(3) The court may impose a judicial admonition on the perpetrator for the offence provided for in paragraph 1 or 2 of the present article if the perpetrator has been provoked by the inhumane or brutal conduct of the injured party.

(4) When the offence provided for in paragraph 1 or 2 of the present article is committed against a person with whom the perpetrator has a domestic relationship, the perpetrator shall be punished by imprisonment of three months to three years, in the case of the offence provided for in paragraph 1 or by imprisonment of six months to three years, in the case of the offence provided for in paragraph 2.

#### Article 154

#### **GRIEVOUS BODILY HARM**

(1) Whoever inflicts bodily harm upon another person or impairs the health of another person to such an extent that it may result in:

- 1) Endangering the life of the other person;
- 2) Destroying or permanently and substantially weakening an organ or a part of the body of the other person;
- 3) Temporarily and substantially weakening a vital organ or a vital part of the body of the other person;
- 4) Temporarily destroying, temporarily and substantially diminishing or permanently diminishing the capacity of the other person to work; or
- 5) Temporarily and seriously impairing or permanently impairing the health of the other person

shall be punished by imprisonment of six months to five years.

(2) When the offence provided for in paragraph 1 of the present article results in:

- 1) Permanently destroying the capacity of the other person for any kind of work;
- 2) Permanently disfiguring the other person;
- 3) Permanently and seriously impairing the health of the other person; or
- 4) Permanently destroying a vital organ or a vital part of the body of the other person

the perpetrator shall be punished by imprisonment of one to ten years.

- (3) When the offence provided for in paragraph 1 or 2 is committed against a person with whom the perpetrator has a domestic relationship, the perpetrator shall be punished by imprisonment of at least one year, in the case of the offence provided for in paragraph 1 or by imprisonment of at least two years, in the case of the offence provided for in paragraph 2.
- (4) When the offence provided for in paragraph 1, 2 or 3 of the present article results in the death of the other person, the perpetrator shall be punished by imprisonment of three to ten years.
- (5) When the offence provided for in paragraph 1, 2 or 3 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of six months to two years, in the case of the offence provided for in paragraph 1 or by imprisonment of six months to three years, in the case of the offence provided for in paragraph 2.
- (6) When the offence provided for in paragraph 1, 2 or 3 of the present article is committed in a state of mental distress after brought, through no fault of his or her own, into a state of severe shock caused by an attack, maltreatment or grave insult by the injured party, the perpetrator shall be punished by imprisonment of six months to three years, in the case of the offence provided for in paragraph 1 or by imprisonment of six months to five years, in the case of the offence provided for in paragraph 2.

#### Article 155

##### **PARTICIPATION IN A BRAWL**

- (1) Whoever participates in a brawl which results in the death or particularly serious bodily injury of one or more persons shall be punished for participating in a brawl by a fine or by imprisonment of up to one year.
- (2) A person is not criminally liable under paragraph 1 of the present article if he or she participated in the brawl through no fault of his or her own or merely to defend himself or herself or to separate other participants in the brawl.

#### Article 156

##### **REFRAINING FROM PROVIDING HELP**

- (1) Whoever refrains from providing help to a person whose life is directly endangered, even though he or she could have acted without endangering himself or herself or another person shall be punished by imprisonment of up to one year.
- (2) Whoever refrains from providing help to another person in a dangerous life-threatening situation or circumstances which were brought about by the perpetrator shall be punished by imprisonment of up to three years.
- (3) When the criminal offence provided for in paragraph 2 of the present article results in serious bodily injury or serious impairment to the health of the endangered person, the perpetrator shall be punished by imprisonment of six months to five years.
- (4) When the criminal offence provided for in paragraph 2 of the present article results in the death of the endangered person, the perpetrator shall be punished by imprisonment of at least five years.

## Article 157

**ABANDONING INCAPACITATED PERSONS**

- (1) Whoever leaves an incapacitated person entrusted to him or her or under his or her care unaided in circumstances dangerous to the life or health of such person shall be punished by imprisonment of three months to three years.
- (2) When the criminal offence provided for in paragraph 1 of the present article results in serious bodily injury or serious impairment to the health of the person who has been left unaided, the perpetrator shall be punished by imprisonment of six months to five years.
- (3) When the criminal offence provided for in paragraph 1 of the present article results in the death of the person who has been left unaided, the perpetrator shall be punished by imprisonment of at least five years.

**CHAPTER XVI: CRIMINAL OFFENCES AGAINST LIBERTIES AND RIGHTS OF PERSONS**

## Article 158

**VIOLATING EQUAL STATUS OF RESIDENTS OF KOSOVO**

- (1) Whoever unlawfully denies or limits the freedoms or rights of a resident of Kosovo, as set forth in the Constitutional Framework and the applicable law, on the basis of a difference of race, colour, sex, language, religious belief or non-belief, political or other opinion, national or social origin, property, birth, education, social status or other personal characteristics or affiliation to an ethnic, religious or linguistic community in Kosovo or whoever unlawfully grants a resident of Kosovo any privilege or advantage on the basis of such a difference or affiliation shall be punished by imprisonment of six months to five years.
- (2) Whoever denies or limits a member of an ethnic, religious or linguistic community in Kosovo the right to freely express his or her identity or to enjoy his or her autonomy shall be punished by imprisonment of six months to five years.
- (3) Whoever, contrary to the laws regarding the use of language and script, denies a resident of Kosovo the right to freely use his or her own language or script shall be punished by a fine or by imprisonment of up to one year.
- (4) When the offence provided for in the present article is committed by an official person in the exercise of his or her duties, the perpetrator shall be punished by imprisonment of one to seven years, in the case of the offence provided for in paragraph 1 or 2 or by imprisonment of six months to three years, in the case of the offence provided for in paragraph 3.

## Article 159

**KIDNAPPING**

(1) Whoever kidnaps another person with the intent to force him or her or another person to do or abstain from doing an act or to acquiesce to an act shall be punished by imprisonment of six months to five years.

(2) When the offence provided for in paragraph 1 of the present article is committed against a child, when the perpetrator commits the offence acting as a member of a group or the perpetrator threatens the kidnapped person with death or severe impairment to health, the perpetrator shall be punished by imprisonment of one to ten years.

(3) If the perpetrator voluntarily releases the kidnapped person before the demands for which the kidnapping was committed are fulfilled, the court may punish the perpetrator more leniently or waive the punishment.

## Article 160

**COERCION**

(1) Whoever compels another person by force or serious threat to do or abstain from doing an act or to acquiesce to an act shall be punished by a fine or by imprisonment of up to six months.

(2) Whoever commits the offence provided for in paragraph 1 against a child or a person with whom the perpetrator has a domestic relationship shall be punished by imprisonment of three months to five years.

(3) When the offence provided for in paragraph 1 of the present article is committed by a perpetrator acting as a member of a group, the perpetrator shall be punished by imprisonment of three months to five years.

(4) Criminal proceedings for the offence provided for in paragraph 1 or 2 of the present article shall be initiated following a motion.

## Article 161

**THREAT**

(1) Whoever seriously threatens to harm another person in order to frighten or cause anxiety to such person shall be punished by a fine or by imprisonment of up to six months.

(2) Whoever seriously threatens to deprive another person of his or her life, to inflict grave bodily harm, to kidnap or deprive another person of his or her liberty or to inflict harm by fire, explosion or any other dangerous means shall be punished by a fine or by imprisonment of up to one year.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed against a child or a person with whom the perpetrator has a domestic relationship, the perpetrator shall be punished by a fine or by imprisonment of up to one year, in the case of the offence provided for in paragraph 1 or by a fine or by imprisonment of up to two years, in the case of the offence provided for in paragraph 2.

(4) When the offence provided in paragraph 1 or 2 of the present article is committed against an official person in connection with his or her work or position or against several persons, when the offence causes a major disturbance to persons, when the threatened person is thus placed in a difficult position for an extended period of time, or when the offence is committed by a perpetrator acting as a member of a group, the perpetrator shall be punished by imprisonment of three months to three years.

(5) Criminal proceedings for the offence provided for in paragraph 1, 2 or 3 of the present article shall be initiated following a motion.

#### Article 162

##### **UNLAWFUL DEPRIVATION OF LIBERTY**

(1) Whoever unlawfully imprisons, detains or in another way deprives another person of liberty shall be punished by a fine or by imprisonment of up to one year.

(2) An attempt to commit the offence provided for in paragraph 1 of the present article shall be punishable.

(3) When the unlawful deprivation of liberty continues for more than thirty days or the offence is committed in a cruel manner or results in severe impairment to the health of the unlawfully detained person or in other grave consequences, the perpetrator shall be punished by imprisonment of three months to five years.

(4) When the offence provided for in paragraph 1 or 3 of the present article is committed against a child or a person with whom the perpetrator has a domestic relationship, the perpetrator shall be punished by imprisonment of three months to five years, in the case of the offence provided for in paragraph 1 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 3.

(5) When the offence provided for in paragraph 1 or 3 of the present article is committed by an official person in the exercise of his or her duties, the perpetrator shall be punished by imprisonment of three months to five years.

(6) When the offence provided for in paragraph 1 or 3 of the present article results in the death of the person unlawfully deprived of liberty, the perpetrator shall be punished by imprisonment of at least five years.

#### Article 163

##### **OBTAINING STATEMENTS BY COERCION**

(1) An official person who, in the exercise of his or her duties, uses force, threat or other prohibited means or manner to compel a suspect, defendant, witness, expert or other person to make a statement or some other declaration shall be punished by imprisonment of three months to five years.

(2) When the offence provided for in paragraph 1 of the present article is committed using grave violence or if the suspect or defendant has suffered grave consequences in the criminal proceedings as a result of the statement obtained by coercion, the perpetrator shall be punished by imprisonment of one to ten years.

## Article 164

**MISTREATMENT IN EXERCISING DUTIES**

- (1) An official person who, in the exercise of his or her duties, mistreats, intimidates or insults another person, shall be punished by imprisonment of three months to three years.
- (2) When the offence provided for in paragraph 1 of the present article is committed against a child, the perpetrator shall be punished by imprisonment of one to five years.

## Article 165

**TORTURE**

- (1) An official person, or a person acting at the instigation of or with the consent or acquiescence of an official person, who commits an act of torture shall be punished by imprisonment of five to fifteen years.
- (2) An act of torture means any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from such person or from a third person information or a statement, of punishing such person for an act that he or she or a third person has committed or is suspected of having committed, or for intimidating or coercing the person or a third person. An act of torture does not include any act or omission arising only from, inherent in or incidental to lawful sanctions.

## Article 166

**INFRINGING INVIOABILITY OF RESIDENCES**

- (1) Whoever, in an unlawful manner, enters the residence or closed premises of another person or fails to leave such premises upon the request of the authorised person shall be punished by imprisonment of up to three years.
- (2) An attempt to commit the offence provided for in paragraph 1 of the present article shall be punishable.
- (3) When the offence provided for in paragraph 1 of the present article is committed by an official person in the exercise of his or her duties, the perpetrator shall be punished by imprisonment of three months to three years.

## Article 167

**UNLAWFUL SEARCH**

An official person who, in the exercise of his or her duties, conducts an unlawful search of a residence, premises or person shall be punished by imprisonment of three months to three years.

## Article 168

**INFRINGING PRIVACY IN CORRESPONDENCE AND COMPUTER DATABASES**

- (1) Whoever, without authorisation, opens a letter, telegram, facsimile, or some other sealed document or package of another person or in any other way violates the privacy of

such materials or, without authorisation, withholds, conceals, destroys or delivers to another person a letter, telegram, facsimile some other sealed document or package of a person shall be punished by a fine or by imprisonment of up to six months.

(2) Whoever, without authorisation, intrudes upon the computer database of another person or uses data obtained from such database or makes such data available to another person shall be punished by a fine or by imprisonment of up to six months.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed for the purpose of obtaining a material benefit for himself or herself or another person or of causing damage to another person, the perpetrator shall be punished by a fine or by imprisonment of up to one year.

(4) When the offence provided for in paragraph 1, 2 or 3 of the present article is committed by an official in the exercise of his or her duty, the perpetrator shall be punished by imprisonment of three months to three years, in the case of the offence provided for in paragraph 1 or 2 or by imprisonment of six months to five years, in the case of the offence provided for in paragraph 3.

#### Article 169

##### **UNAUTHORISED DISCLOSURE OF CONFIDENTIAL INFORMATION**

(1) An attorney, a defence counsel, physician or any other person, who without authorisation, discloses confidential information that he or she became aware of while exercising his or her profession shall be punished by a fine or by imprisonment of up to one year.

(2) A person is not criminally liable under paragraph 1 of the present article if he or she disclosed the confidential information in the general interest, if such interest outweighs the interest in the non-disclosure of the confidential information.

(3) Criminal proceedings for the offence provided for in paragraph 1 of the present article shall be initiated following a motion.

#### Article 170

##### **UNAUTHORISED WIRETAPPING AND RECORDINGS**

(1) Whoever, with the use of special equipment and without authorisation, wiretaps or records a conversation or a statement not addressed to him or her or enables another person to have knowledge of a conversation or statement which was wiretapped or recorded without authorisation shall be punished by a fine or by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article is committed by an official in the exercise of his or her duty, the perpetrator shall be punished by a fine or by imprisonment of up to two years.

(3) Criminal proceedings for the offence provided for in paragraph 1 of the present article shall be initiated upon a motion.

(4) Special equipment used to commit the offence provided for in paragraph 1 of the present article shall be confiscated.

#### Article 171

##### **UNAUTHORISED PHOTOGRAPHING AND OTHER RECORDING**

(1) Whoever photographs, films, or videotapes or in any other way records another person in his or her personal premises without his or her consent and in that way fundamentally violates his or her privacy or whoever passes on, displays or grants access to a third person to such photograph, film or video recording, shall be punished by a fine or by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article is committed by an official in the exercise of his or her duties, the perpetrator shall be punished by imprisonment of three months to three years.

(3) Criminal proceedings for the offence provided for in paragraph 1 of the present article shall be initiated following a motion.

#### Article 172

##### **VIOLATING ORDERS FOR COVERT OR TECHNICAL MEASURES OF SURVEILLANCE OR INVESTIGATION**

(1) A police officer who implements a judicial or prosecutorial order for covert or technical measures of surveillance or investigation in breach of the relevant articles in the Provisional Criminal Procedure Code shall be punished by a fine or by imprisonment of up to three years.

(2) A person who reveals information which will damage the effectiveness of the implementation of an order for covert or technical measures of surveillance or investigation shall be punished by imprisonment of up to three years.

(3) A person responsible for the operation of telecommunications, computer networks or postal services or an employee of a financial institution who fails to take appropriate steps to facilitate the implementation of an order for interception of telecommunications, interception of communications by a computer network, search of postal items, metering of telephone calls or disclosure of financial data, commits a criminal offence punishable by a fine or a term of imprisonment of up to three years.

#### Article 173

##### **PREVENTING OR HINDERING A PUBLIC MEETING**

(1) Whoever, by use of force, serious threat, deception or in any other way, prevents or hinders the convening or holding of a public meeting to which persons are entitled by law shall be punished by a fine or by imprisonment up to one year.

(2) When the offence provided for in paragraph 1 of the present article is committed by an official person abusing his or her position or authorisations, the perpetrator shall be punished by imprisonment of up to two years.



## Article 174

**PREVENTING EXERCISE OF THE RIGHT TO USE LEGAL REMEDIES**

(1) Whoever, by use of force or serious threat, prevents another person from using his or her right to lodge a complaint or to use any other legal remedy shall be punished by a fine or by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article is committed by an official person abusing his or her position or authorisations, the perpetrator shall be punished by imprisonment of three months to three years.

## Article 175

**PREVENTING PRINTING OR DISTRIBUTION OF PRINTED MATERIALS**

Whoever unlawfully prevents the printing, selling or distribution of books, magazines, or other printed materials shall be punished by a fine or by imprisonment of up to one year.

## Article 176

**PREVENTING EXERCISE OF THE RIGHT TO VOTE**

Whoever, in the exercise of duties entrusted to him or her relating to elections in Kosovo and with the intent to prevent another person from exercising his or her right to vote, unlawfully fails to record such person in a voter registration list or removes such person from the voter registration list or in any other manner prevents another person from exercising his or her right to vote shall be punished by a fine or by imprisonment of up to one year.

## Article 177

**VIOLATING THE FREE DECISION OF VOTERS**

Whoever, by the use of force, serious threat, bribery or abuse of the economic and professional dependence of a voter, influences a voter in Kosovo to vote in a particular way or to abstain from voting in an election shall be punished by imprisonment from six months to three years.

## Article 178

**ABUSING THE RIGHT TO VOTE**

Whoever, in an election held in Kosovo, votes under the name of another person or votes or attempts to vote even though he or she has already voted shall be punished by a fine or by imprisonment of up to one year.

## Article 179

**VIOLATING CONFIDENTIALITY IN VOTING**

(1) Whoever, in an election held in Kosovo, violates confidentiality in voting shall be punished by a fine or by imprisonment of up to six months.

(2) Whoever, by use of force, serious threat or in any other way, demands from a person to reveal how he or she has voted shall be punished by a fine or by imprisonment of up to one year.

(3) When the offence provided for in paragraph 1 of the present article is committed by a member of the Central Election Committee or any other person in the exercise of his or her duty in elections or voting, the perpetrator shall be punished by imprisonment of up to three years.

#### Article 180

##### **ELECTION FRAUD**

Whoever falsifies the results of an election held in Kosovo by adding, removing or deleting votes or signatures, by counting them incorrectly, by registering incorrectly the results of the election in the election documents or in any other manner, or publishes results of the election or the voting that do not correspond to the actual voting shall be punished by imprisonment of six months to five years.

#### Article 181

##### **DESTROYING VOTING DOCUMENTS**

(1) Whoever, in an election held in Kosovo, destroys, conceals, damages or takes any document or any other object related to the election shall be punished by a fine or by imprisonment up to one year.

(2) When the offence provided for in paragraph 1 of the present article is committed by an official in the exercise of his or her duties related to elections, the perpetrator shall be punished by imprisonment of up to two years.

## **CHAPTER XVII: CRIMINAL OFFENCES AGAINST LABOUR RELATIONS RIGHTS**

#### Article 182

##### **VIOLATING RIGHTS IN LABOUR RELATIONS**

Whoever knowingly fails to comply with the law or a collective contract relating to employment or termination of labour relations, salaries or other income, the length of working hours, vacation or absence from work, protection of women, children or disabled persons, or overtime work or night shifts and in this way denies or restricts the rights to which an employee is entitled shall be punished by a fine or by imprisonment of up to one year.

#### Article 183

##### **VIOLATING RIGHTS OF EMPLOYMENT AND UNEMPLOYMENT**

(1) Whoever denies or restricts the right of persons to free employment under equal conditions which have been determined by law shall be punished by a fine or by imprisonment of up to one year.

(2) Whoever fails to respect the law on the rights of the unemployed and in this way denies or restricts the rights to which they are entitled shall be punished with the same punishment as provided for in paragraph 1 of the present article.

#### Article 184

##### **VIOLATING RIGHTS OF WORKERS TO PARTICIPATE IN MANAGEMENT**

Whoever, in violation of the law, obstructs or renders it impossible for a worker to exercise his or her right to participate in management or abuses those rights shall be punished by a fine or by imprisonment of up to one year.

#### Article 185

##### **VIOLATING SOCIAL INSURANCE RIGHTS**

Whoever knowingly fails to comply with the law or a collective contract relating to health, retirement, or disability insurance or other forms of social insurance and by doing so denies or limits the rights belonging to a worker shall be punished by a fine or by imprisonment of up to one year.

#### Article 186

##### **ENDANGERING WORKPLACE SAFETY**

(1) Whoever destroys, damages or removes safety equipment in a mine, a factory, a construction site or any other workplace and thus endangers human lives shall be punished by imprisonment of up to three years.

(2) Whoever is responsible for workplace safety and health in a mine, a factory, a construction site or any other workplace and fails to install safety equipment, fails to maintain such equipment or fails to comply with technical rules on workplace safety measures and thus endangers human lives shall be punished by imprisonment of up to two years.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of up to one year.

(4) When the offence provided for in paragraph 1, 2 or 3 of the present article results in serious injury to one or more persons, the perpetrator shall be punished by imprisonment of up to five years, in the case of the offence provided for in paragraph 1 or 2 or by imprisonment of up to three years, in the case of the offence provided for in paragraph 3.

(5) When the offence provided for in paragraph 1, 2 or 3 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1 or 2 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 3.

**CHAPTER XVIII: CRIMINAL OFFENCES AGAINST HONOUR AND REPUTATION**

## Article 187

**INSULT**

- (1) Whoever insults another person shall be punished by a fine or by imprisonment of up to three months.
- (2) A person is not criminally liable under paragraph 1 of the present article:
  - 1) If he or she describes another person in an insulting manner in a scientific, artistic or literary work, in a serious review, in the exercise of his or her official duties, journalistic profession, political activity or other social activity, or in protecting a right or a justified interest; and
  - 2) If according to the manner of expression or other related circumstances it is apparent that the act is not committed with the intent to disparage.
- (3) If the insulted person has responded to the insult, the court may punish, or waive the punishment of, one or both parties concerned.

## Article 188

**DEFAMATION**

- (1) Whoever asserts or circulates untrue statements about another person which damage his or her honour and reputation although he or she know such statements to be untrue shall be punished by a fine or by imprisonment of up to three months.
- (2) A person is not criminally liable under paragraph 1 of the present article if the statement asserted or circulated is true or if he or she had a well-founded reason to believe in the veracity of such statement.

## Article 189

**DISCLOSING PERSONAL AND FAMILY CIRCUMSTANCES**

- (1) Whoever asserts or circulates confidential information related to the personal or family life of a person which may damage his or her reputation shall be punished by a fine or by imprisonment of up to three months.
- (2) The veracity or falsity of the information asserted or circulated which is related to the personal or family life of a person may not be examined in court, except in the case provided for in paragraph 5 of the present article.
- (3) A person is not criminally liable under paragraph 1 of the present article:
  - 1) If the act was done in the exercise of official duties, political or other social activities, in defending a right or protecting a justified interest; and

- 2) The information asserted or circulated is true or such person had a well-founded reason to believe in the veracity of such information.

#### Article 190

#### **PROSECUTION OF CRIMINAL OFFENCES AGAINST HONOUR AND REPUTATION**

- (1) Criminal proceedings for the offences provided for in Articles 187 through 189 of the present Code shall be initiated based on a private prosecution.
- (2) When the offences provided for in Articles 187 through 189 of the present Code are committed against a dead person, criminal proceedings shall be initiated based on a private prosecution by the spouse, children, parents, adoptive parents, or siblings of the dead person.

#### Article 191

#### **PUBLICATION OF JUDGMENTS**

In the case of the imposition of a punishment for the offence of defamation committed through the press or other means of public information and communication, the court may, upon the request of the injured party, order the publication of the judgment, in whole or in part, at the expense of the person convicted.

### **CHAPTER XIX: CRIMINAL OFFENCES AGAINST SEXUAL INTEGRITY**

#### Article 192

#### **DEFINITIONS RELATING TO CRIMINAL OFFENCES AGAINST SEXUAL INTEGRITY**

For the purposes of the present chapter,

- (1) The term “consent” means the voluntary agreement of a person who has reached the age of sixteen years to engage in the sexual act in question. No consent is obtained where:
  - 1) Such person expresses, by word or conduct, a lack of agreement to engage or to continue to engage in the sexual act;
  - 2) The agreement is expressed by the words or conduct of a person other than the victim;
  - 3) The agreement of such person was obtained by deception, fear or intimidation, where such means do not involve the use of force, threat or exploitation as provided for in 193(2); or
  - 4) Such person is incapable of agreeing to the sexual act because of intoxication by alcohol, drugs or other substances.
- (2) Nothing in paragraph 1 of the present article shall be interpreted as limiting the circumstances in which there is no consent.

- (3) The term “sexual act” means penetration of any part of the body of a person with a sexual organ, or the penetration of the anal or genital opening of a person with any object or any other part of the body.
- (4) The term “subjecting another person to a sexual act” means the commission of a sexual act on another person by the perpetrator, or inducing another person to commit a sexual act on the perpetrator or a third person or inducing a third person to commit a sexual act on another person.
- (5) The term “touching” means any direct or indirect contact, where there is no penetration, between the body of a person with any part of the body of another person or with an object.
- (6) The term “child pornography” means pornographic material that visually depicts a person under the age of eighteen years engaged in sexually explicit conduct, a person appearing to be a person under the age of sixteen years engaged in sexually explicit conduct, or realistic images representing a person under the age of sixteen years engaged in sexually explicit conduct.
- (7) The term “prostitution” means offering or providing sexual services in exchange for payment, goods or services.

#### Article 193

#### **RAPE**

- (1) Whoever subjects another person to a sexual act without such person’s consent shall be punished by imprisonment of two to ten years.
- (2) Whoever subjects another person to a sexual act:
- 1) By force;
  - 2) By threat of an imminent danger to the life or body of such person or of another person; or
  - 3) By exploiting a situation in which the person is unprotected and where his or her security is in danger;

shall be punished by imprisonment of three to ten years.

- (3) When the offence provided for in paragraph 1 or 2 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of five to fifteen years:
- 1) The offence is preceded, accompanied or followed by an act of torture or inhumane treatment;
  - 2) The perpetrator causes serious bodily injury or serious disturbances to the mental or physical health of the person;

- 3) The perpetrator uses a weapon or a dangerous instrument;
  - 4) The perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
  - 5) The offence is jointly committed by more than one person;
  - 6) The perpetrator knows that the person is exceptionally vulnerable because of old age, physical or mental disorder or disability, or pregnancy;
  - 7) The perpetrator is the parent, adoptive parent, foster parent, step-parent, grandparent, uncle, aunt or older sibling of the person and such person is between the ages of sixteen and eighteen years;
  - 8) The perpetrator shares a domestic relationship with the person and such person is between the ages of sixteen and eighteen years.
- (4) When the offence provided for in paragraph 2 of the present article is committed against a person under the age of sixteen years, the perpetrator shall be punished by imprisonment of five to twenty years.
- (5) When the offence provided for in paragraph 1 or 2 of the present article results in the death of the victim, the perpetrator shall be punished by imprisonment of at least ten years or by long-term imprisonment.

#### Article 194

#### **COMMISSION OF SEXUAL ACTS BY THREAT TO HONOUR OR REPUTATION**

Whoever subjects another person to a sexual act by threatening to reveal something that would seriously harm the honour or reputation of such person or of a person closely connected to such person shall be punished by imprisonment of six months to five years.

#### Article 195

#### **SEXUAL ASSAULT**

- (1) Whoever touches another person for a sexual purpose or induces another person to touch the perpetrator or a third person for a sexual purpose, without the consent of such other person, shall be punished by a fine or by imprisonment of six months to five years.
- (2) Whoever touches another person for a sexual purpose or induces another person to touch the perpetrator or a third person for a sexual purpose:
  - 1) By force;
  - 2) By threat of an imminent danger to the life or body of such person or of another person; or

- 3) By exploiting a situation in which such other person is unprotected and where his or her security is in danger;

shall be punished by imprisonment of one to seven years.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of three to ten years:

- 1) The offence is preceded, accompanied or followed by an act of torture or inhumane treatment;
- 2) The perpetrator causes serious bodily injury or serious disturbances to the mental or physical health of the person;
- 3) The perpetrator uses a weapon or a dangerous instrument;
- 4) The perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
- 5) The offence is jointly committed by more than one person;
- 6) The perpetrator knows that the person is exceptionally vulnerable because of old age, physical or mental disorder or disability, or pregnancy;
- 7) The perpetrator is the parent, adoptive parent, foster parent, step-parent, grandparent, uncle, aunt or older sibling of the person and such person is between the ages of sixteen and eighteen years;
- 8) The perpetrator shares a domestic relationship with the person and such person is between the ages of sixteen and eighteen years.

(4) When the offence provided for in paragraph 2 of the present article is committed against a person under the age of sixteen years, the perpetrator shall be punished by imprisonment of five to ten years.

(5) When the offence provided for in paragraph 1 or 2 of the present article results in the death of the victim, the perpetrator shall be punished by imprisonment of at least ten years or by long-term imprisonment.

#### Article 196

#### **DEGRADATION OF SEXUAL INTEGRITY**

(1) Whoever induces another person to expose the private parts of such person's body, to masturbate or to commit another act that degrades such person's sexual integrity, without the consent of such person, shall be punished by a fine or by imprisonment of six months to one year.

(2) Whoever induces another person to expose the private parts of such person's body, to masturbate or to commit another act that degrades such person's sexual integrity:



- 1) By force;
- 2) By threat of an imminent danger to the life or body of the such person or of another person; or
- 3) By exploiting a situation in which the person is unprotected and where his or her security is in danger;

shall be punished by imprisonment of six months to three years.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of one to three years:

- 1) The offence is preceded, accompanied or followed by an act of torture or inhumane treatment;
- 2) The perpetrator causes serious bodily injury or serious disturbances to the mental or physical health of the person;
- 3) The perpetrator uses a weapon or a dangerous instrument;
- 4) The perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
- 5) The perpetrator knows that the person is vulnerable because of old age, physical or mental disorder or disability, or pregnancy; or
- 6) The perpetrator is the parent, adoptive parent, foster parent, step-parent, grandparent, uncle, aunt or older sibling of the person and such person is between the ages of sixteen to eighteen years;
- 7) The perpetrator shares a domestic relationship with the person and such person is between the ages of sixteen to eighteen years.

(4) When the offence provided for in paragraph 2 of the present article is committed against a person under the age of sixteen years, the perpetrator shall be punished by imprisonment of one to five years.

#### Article 197

#### **SEXUAL ABUSE OF PERSONS WITH MENTAL OR EMOTIONAL DISORDERS OR DISABILITIES**

(1) Whoever subjects a person with a mental or emotional disorder or disability to a sexual act with the perpetrator or a third person by exploiting such person's disorder or disability shall be punished by imprisonment of one to ten years.

(2) Whoever touches for a sexual purpose a person with a mental or emotional disorder or disability or induces such person to touch the perpetrator or a third person for a sexual

purpose by exploiting such person's disorder or disability shall be punished by imprisonment of up to five years.

(3) Whoever induces a person with a mental or emotional disorder or disability to expose private parts of his or her body, to masturbate or to commit an act which degrades his or her sexual integrity by exploiting such person's disorder or disability shall be punished by imprisonment of up to one year.

(4) When the offence provided for in paragraph 1, 2 or 3 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of three to fifteen years, in the case of the offence provided for in paragraph 1 or 2 or by imprisonment of up to three years, in the case of the offence provided for in paragraph 3:

- 1) The offence is preceded, accompanied or followed by an act of torture or inhumane treatment;
- 2) The perpetrator causes serious bodily harm or serious disturbance to the mental or physical health of the person;
- 3) The perpetrator uses a weapon or a dangerous instrument;
- 4) The perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
- 5) The offence is jointly committed by more than one person;
- 6) The perpetrator is the parent, adoptive parent, foster parent, step-parent, or grandparent of the person and such person is between the ages of sixteen and eighteen years;
- 7) The perpetrator shares a domestic relationship with the person and such person is between the ages of sixteen and eighteen years;
- 8) The person is entrusted to the perpetrator for professional counselling, treatment or care.

(5) When the offence provided for in paragraph 1 or 2 of the present article results in the death of the person, the perpetrator shall be punished by imprisonment of at least 10 years or by long-term imprisonment.

#### Article 198

#### **SEXUAL ABUSE OF PERSONS UNDER THE AGE OF SIXTEEN YEARS**

(1) Whoever subjects a person under the age of sixteen years to a sexual act shall be punished by imprisonment of one to ten years.

(2) Whoever touches for a sexual purpose a person under the age of sixteen years or induces a person under the age of sixteen years to touch the perpetrator or third person for a sexual purpose shall be punished by imprisonment of up to five years.

(3) Whoever induces a person under the age of sixteen years to expose private parts of his or her body, to masturbate or to commit another act which degrades his or her sexual integrity, shall be punished by imprisonment of up to one year.

(4) When the act provided for in paragraph 1, 2 or 3 of the present article is committed with the agreement of two persons who have reached the age of fourteen years and where difference in their ages does not exceed two years, or, if the difference in their ages exceeds two years, where there is not an clear difference in the maturity level of the two persons, such act shall not constitute a criminal offence.

(5) When the offence provided for in paragraph 1, 2 or 3 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of three to twenty years, in the case of the offence provided for in paragraph 1 or 2 or by imprisonment of up to five years, in the case of the offence provided for in paragraph 3:

- 1) The offence is preceded, accompanied or followed by an act of torture or inhumane treatment;
- 2) The perpetrator causes serious bodily harm or serious disturbance to the mental or physical health of the person;
- 3) The perpetrator uses a weapon or a dangerous instrument;
- 4) The perpetrator intentionally causes the person to become intoxicated by alcohol, drugs or other substances;
- 5) The offence is jointly committed by more than one person;
- 6) The perpetrator is a teacher, a health care professional, or a person entrusted with such person's upbringing, education or care;
- 7) The perpetrator is the parent, adoptive parent, foster parent, step-parent, grandparent, uncle, aunt or older sibling of the victim;
- 8) The perpetrator shares a domestic relationship with the victim.

(6) When the offence provided for in paragraph 1 or 2 of the present article results in the death of the victim, the perpetrator shall be punished by imprisonment of at least 10 years or by long-term imprisonment.

(7) Whoever, by a false promise of marriage, induces a person who is between the ages of sixteen to eighteen years in a sexual act shall be punished by imprisonment of three months to three years.

(8) The period of statutory limitation for the prosecution of an offence provided for in the present article shall begin to run on the day the victim reaches the age of eighteen years.

(9) Criminal proceedings for the offence provided for in paragraph 7 of the present article shall be initiated by means of a motion.

## Article 199

**PROMOTING SEXUAL ACTS OR SEXUAL TOUCHING BY PERSONS UNDER THE AGE OF SIXTEEN YEARS**

- (1) Whoever brokers, furnishes or creates an opportunity for a person under the age of sixteen years to commit a sexual act with a third person who has reached the age of eighteen years shall be punished by imprisonment of six months to five years.
- (2) Whoever brokers, furnishes or creates an opportunity for a person under the age of sixteen years to touch a third person who has reached the age of eighteen years for a sexual purpose or to allow a third person who has reached the age of eighteen years to touch a person under the age of sixteen years for a sexual purpose shall be punished by imprisonment of six months to three years.

## Article 200

**SEXUAL ABUSE BY ABUSING POSITION, AUTHORITY OR PROFESSION**

- (1) Whoever subjects another person to a sexual act:
- 1) By abusing his or her control over the financial, family, social, health, employment, educational or other circumstances of such person or a third person;
  - 2) By abusing his or her position or authority over the victim who is held in detention or custody and who is entrusted to the perpetrator for upbringing, education, supervision or care; or
  - 3) By abusing his or her position or authority over the victim who is between the ages of sixteen and eighteen years and who is entrusted to the perpetrator for upbringing, education or care

shall be punished by imprisonment of six months to five years.

- (2) Whoever touches another person for a sexual purpose or induces another person to touch the perpetrator or a third person for a sexual purpose:
- 1) By abusing his or her control over the financial, family, social, health, employment, educational or other circumstances of such person or a third person;
  - 2) By abusing his or her position or authority over the victim who is held in detention or custody and who is entrusted to the perpetrator for upbringing, education, supervision or care; or
  - 3) By abusing his or her position or authority over the victim who is between the ages of sixteen and eighteen years and who is entrusted to the perpetrator for upbringing, education or care

shall be punished by imprisonment of six months to three years.

(3) The period of statutory limitation for the prosecution of the offence provided for in the present article shall begin to run on the day the victim reaches the age of eighteen years.

#### Article 201

##### **FACILITATING PROSTITUTION**

(1) Whoever knowingly recruits, organizes or assists another person or provides premises to another person for the purpose of prostitution shall be punished by a fine or by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 is committed within a 350 meter radius of a school or other locality which is used by children, the perpetrator shall be punished by imprisonment of six months to five years.

(3) Whoever, by force, threat of force, or by holding another person in a situation of personal or economic dependency compels such person to engage in prostitution shall be punished by imprisonment from one to eight years.

(4) When the offence provided for in paragraph 1, 2 or 3 of the present article is committed against a person between the ages of sixteen and eighteen years, the perpetrator shall be punished by imprisonment of one to ten years. When the offence provided for in paragraph 1, 2 or 3 is committed against a person under the age of sixteen years, the perpetrator shall be punished by imprisonment of one to twelve years.

(5) The period of statutory limitation for the prosecution of the offence provided for in paragraph 4 shall begin to run on the day the victim reaches the age of eighteen years.

#### Article 202

##### **ABUSE OF CHILDREN IN PORNOGRAPHY**

(1) Whoever produces child pornography or uses or involves a child in making or producing live performances shall be punished by imprisonment of one to five years.

(2) Whoever sells, distributes, promotes, displays, transmits, offers or makes available child pornography shall be punished by imprisonment of six months to five years.

(3) Whoever procures for himself or herself or for another person or possesses child pornography shall be punished by a fine or by imprisonment of up to three years.

(4) The period of statutory of limitation for prosecution of the offence provided for in paragraph 1 of the present article shall begin to run on the day the victim reaches the age of eighteen years.

#### Article 203

##### **SHOWING PORNOGRAPHIC MATERIAL TO PERSONS UNDER THE AGE OF SIXTEEN YEARS**

Whoever sells, offers to sell or provides a person under the age of sixteen years with photographs, audio-visual material or other objects with pornographic content or knowingly allows such person to attend a live performance with a pornographic content or intentionally

brings such person to such a performance shall be punished by a fine or by imprisonment of up to one year.

#### Article 204

##### **SEXUAL RELATIONS WITHIN FAMILY UNITS**

- (1) Whoever engages in a sexual act with a family ascendant or a descendant who has reached the age of eighteen years or a sibling who has reached the age of eighteen years shall be punished by a fine or by imprisonment of three months to three years.
- (2) A parent, adoptive parent, foster parent, step-parent, grandparent, uncle or aunt who engages in a sexual act with his or her child, foster child, step-child, grandchild, nephew or niece who is between the ages of sixteen and eighteen years shall be punished by imprisonment of six months to five years.
- (3) When an older sibling engages in a sexual act with a sibling, adoptive sibling, step-sibling or foster sibling who is between the ages of sixteen and eighteen years, the older sibling shall be punished as provided for in paragraph 2 of the present article.
- (4) The period of statutory limitation for the prosecution of the offence provided for in paragraph 2 or 3 shall begin to run on the day the victim reaches the age of eighteen years.

## **CHAPTER XX: CRIMINAL OFFENCES AGAINST MARRIAGE AND FAMILY**

#### Article 205

##### **BIGAMY**

- (1) Whoever, being already married, enters into a new marriage shall be punished by imprisonment of up to one year.
- (2) Whoever enters into a marriage with a person whom he or she knows to be already married shall be punished as provided for in paragraph 1 of the present article.
- (3) When, subsequent to the commission of the offence provided for in the present article, the previous marriage has been terminated or invalidated, the prosecution for the offence shall not be initiated and if it has been already initiated, it shall be terminated.

#### Article 206

##### **ENABLING UNLAWFUL MARRIAGES TO TAKE EFFECT**

An authorised official person before whom a marriage takes effect who, in the exercise of his or her official duties, permits a marriage to take effect despite having knowledge of legal impediments which prohibit the marriage shall be punished by a fine or by imprisonment of up to one year.

## Article 207

**FORCED MARRIAGES**

- (1) Whoever compels another person to enter into a marriage shall be punished by imprisonment of up to one year.
- (2) When the offence provided for in paragraph 1 of the present article is committed against a child, the perpetrator shall be punished by imprisonment of six months to three years.

## Article 208

**COHABITING WITH PERSONS UNDER THE AGE OF SIXTEEN YEARS IN EXTRAMARITAL COMMUNITY**

- (1) An adult who cohabits in extramarital community with a person under the age of sixteen years shall be punished by imprisonment of three months to three years.
- (2) A parent, an adoptive parent, guardian or another person exercising parental authority who permits or induces a person under the age of sixteen years to cohabit in extramarital community with another person shall be punished as provided for in paragraph 1 of the present article.
- (3) When the offence provided for in paragraph 1 or 2 of the present article is committed against a person under the age of fourteen years, the perpetrator shall be punished by imprisonment of six months to three years.
- (4) When the offence provided for in paragraph 2 or 3 is committed with the purpose of obtaining a material benefit, the perpetrator shall be punished by imprisonment of one to five years.

## Article 209

**CHANGING THE FAMILY STATUS OF A CHILD**

- (1) Whoever unlawfully substitutes one child for another or otherwise alters his or her family status shall be punished by imprisonment of three months to three years.
- (2) An attempt to commit the offence provided for in paragraph 1 of the present article shall be punishable.

## Article 210

**UNLAWFUL ABDUCTION OF A CHILD**

- (1) Whoever unlawfully keeps or abducts a child from a parent, an adoptive parent, a guardian, another person who exercises parental rights or from an institution to which the child has been entrusted or prevents the execution of a binding decision by a competent authority for entrusting the child to another person or institution shall be punished by imprisonment of up to three years.

(2) When the perpetrator of the criminal offence provided for in paragraph 1 of the present article is a parent against whom a competent authority has imposed a binding decision to deprive such person of his or her parental rights or to entrust the education or supervision of the child to the other parent or another person, the perpetrator shall be punished by imprisonment of up to one year.

(3) Whoever commits the offence provided for in paragraph 1 of the present article for material interests or other base motives shall be punished by imprisonment of one to ten years.

#### Article 211

##### **MISTREATING OR ABANDONING A CHILD**

(1) A parent, adoptive parent, guardian or another person exercising parental authority over a child who mistreats such child using physical or mental measures or breaches his or her obligation to care for and educate the child by gross negligence shall be punished by imprisonment of three months to three years.

(2) A parent, adoptive parent, guardian or another person exercising parental authority over a child who abandons such child in a manner which endangers his or her life or seriously impairs his or her health shall be punished by imprisonment of six months to five years.

(3) A parent, adoptive parent, guardian or another person exercising parental authority over a child who compels such child to work excessively or to perform work that is not suitable for the age of the child or compels such child to beg for money or other material gain, or compels such child to engage in other activities damaging to his or her development shall be punished by imprisonment of three months to three years.

(4) When the offence provided for in paragraph 1, 2 or 3 of the present article results in grievous injury to the mental or physical health of a child, the perpetrator shall be punished by imprisonment of one to eight years.

#### Article 212

##### **VIOLATING FAMILY OBLIGATIONS**

(1) Whoever seriously violates his or her legal family obligations leaving a family member who is incapable taking care of himself or herself in a situation of distress shall be punished by imprisonment of three months to three years.

(2) When the offence provided for in paragraph 1 of the present article results in the death of the family member or serious impairment to his or her health, the perpetrator shall be punished by imprisonment of one to eight years.

(3) If the court imposes a suspended sentence, it may order, as a condition, that the perpetrator regularly fulfil his or her obligations of care, education and maintenance support.



## Article 213

**AVOIDING MAINTENANCE SUPPORT**

- (1) Whoever avoids providing maintenance support to a person whom he or she is obliged to support based on a decision of the court which has entered into force, a settlement concluded before the court which has entered into force or a decision by another competent authority shall be punished by imprisonment of up to one year.
- (2) If the court imposes a suspended sentence, it may order, as a condition, that the perpetrator pay for maintenance support and unpaid obligations.
- (3) When the perpetrator of the offence provided for in paragraph 1 of the present article fulfils the obligation before the imposition of the judgment of the court of first instance, the court may waive the punishment.

## Article 214

**PREVENTION AND NON-EXECUTION OF MEASURES FOR PROTECTING CHILDREN**

- (1) Whoever prevents the execution of educational measures and other measures prescribed by the court or other another competent authority in charge of protecting children shall be punished by a fine or by imprisonment of up to one year.
- (2) Whoever, as the responsible person on duty in a body or institution for the protection, education or vocational training of children, exercises his or her duties in an obviously irresponsible manner, thereby severely impairing the health or development of a child shall be punished by a fine or by imprisonment of up to three years.

**CHAPTER XXI: CRIMINAL OFFENCES AGAINST PUBLIC HEALTH**

## Article 215

**TRANSMITTING CONTAGIOUS DISEASES**

- (1) Whoever fails to comply with the provisions or orders of the competent public entity in the field of health establishing controls, disinfections or quarantines of sick persons or other measures aimed at preventing or fighting contagious diseases among people and thereby causes the transmission of a contagious disease shall be punished by a fine or by imprisonment of up to one year.
- (2) Whoever fails to comply with the provisions or orders provided for in the paragraph 1 of the present article aimed at preventing or fighting contagious diseases among animals and thereby causes the transmission of a contagious disease among people shall be punished as provided for in paragraph 1 of the present article.
- (3) When the offence provided for in paragraph 1 or 2 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six months.
- (4) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or serious impairment to health, the perpetrator shall be punished by

imprisonment of one to eight years and when the offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years.

(5) When the offence provided for in paragraph 3 of the present article results in serious bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of up to three years and when the offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to eight years.

#### Article 216

##### **FAILURE TO COMPLY WITH HEALTH PROVISIONS DURING AN EPIDEMIC**

Whoever during an epidemic of a contagious disease fails to comply with orders or other decisions issued on the basis of provisions of the competent authority which establish measures aimed at fighting or preventing the disease shall be punished by imprisonment of up to one year.

#### Article 217

##### **TRANSMITTING VENEREAL DISEASES**

(1) Whoever knows that he or she is infected with the HIV virus or any venereal disease and knowingly hides this fact and infects another person shall be punished by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article results in serious and permanent impairment to health or the death of a person, the perpetrator shall be punished by imprisonment of one to ten years.

(3) Criminal proceedings for the offence provided for in paragraph 1 of the present article shall be initiated by a motion.

#### Article 218

##### **EMPLOYING PERSONS INFECTED BY CONTAGIOUS DISEASES**

(1) Whoever, contrary to health laws, in a hospital, maternity hospital, school, restaurant, a store where food items are processed or hygienic services are carried out or in a similar business organization or workplace, employs or continues to employ a person whom he or she knows to be suffering from a contagious disease and thereby causes the transmission of the contagious disease shall be punished by a fine or by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six months.

(3) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of one to eight years, in the case of the offence provided for in paragraph 1 or by imprisonment of up to three years, in the case of the offence provided for in paragraph 2.

(4) When the offence provided for in paragraph 1 or 2 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 2.

#### Article 219

##### **IRRESPONSIBLE MEDICAL TREATMENT**

(1) A physician who, when providing medical assistance, uses obviously inappropriate means or an incorrect method of treatment or fails to use appropriate hygienic measures and thereby causes the deterioration of the condition of a person shall be punished by imprisonment of up to three years.

(2) A health care worker who, when providing medical assistance or treatment, acts in an irresponsible manner and thereby causes the deterioration of the condition of a person shall be punished as provided for in paragraph 1 of the present article.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of up to one year.

(4) When the offence provided for in paragraph 1, 2 or 3 of the present article results in serious bodily injury or any serious impairment to the health of a person, the perpetrator shall be punished by imprisonment of one to eight years, in the case of the offence provided for in paragraph 1 or 2 or by imprisonment of up to three years, in the case of the offence provided for in paragraph 3.

(5) When the offence provided for in paragraph 1, 2 or 3 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1 or 2 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 3.

#### Article 220

##### **FAILURE TO PROVIDE MEDICAL ASSISTANCE**

A physician who does not provide the necessary medical assistance to a person in need of such assistance even though he or she is aware or could and should be aware that such omission may result in serious impairment to the health of the person or his or her death shall be punished by imprisonment of up to three years.

#### Article 221

##### **UNLAWFUL EXERCISE OF MEDICAL ACTIVITY**

(1) Whoever, without possessing professional qualifications or legal authorisation, carries out medical treatment or engages in some other medical activity for which specific qualifications are required by law shall be punished by a fine or by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years.

#### Article 222

##### **IRRESPONSIBLE PREPARATION AND DISPENSING OF DRUGS**

(1) A pharmacist or another person authorised to prepare or distribute drugs who prepares a drug contrary to professional standards or dispenses drugs incorrectly and thereby endangers the health or the life of a person shall be punished by a fine or by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six months.

(3) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of one to eight years, in the case of the offence provided for in paragraph 1 or by imprisonment of up to three years, in the case of the offence provided for in paragraph 2.

(4) When the offence provided for in paragraph 1 or 2 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 2.

(5) The prepared drugs shall be confiscated.

#### Article 223

##### **PRODUCTION AND DISTRIBUTION OF TAINTED MEDICAL PRODUCTS**

(1) Whoever produces tainted drugs or other medical products which are harmful to health with the purpose of selling them or otherwise putting them into circulation shall be punished by a fine or by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year.

(3) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily harm or serious impairment to health, the perpetrator shall be punished by imprisonment of one to eight years, in the case of the offence provided for in paragraph 1 or by imprisonment of up to three years, in the case of the offence provided for in paragraph 2 of the present article.

(4) When the offence provided for in paragraph 1 or 2 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 2.

- (5) The medical products and means for production shall be confiscated.

#### Article 224

##### **PRODUCTION AND CIRCULATION OF HARMFUL FOOD ITEMS**

- (1) Whoever produces with the intent to sell, sells, offers for sale or in any other manner puts into circulation food items, drinks or other products which the perpetrator knows to be harmful to people's health shall be punished by imprisonment of three months to three years.
- (2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six months.
- (3) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or any serious impairment to the health of any person, the perpetrator shall be punished by imprisonment of one to eight years in the case of the offence provided for in paragraph 1 of the present article or imprisonment of up to three years, in the case of the offence provided for in paragraph 2 of the present article.
- (4) When the offence provided for in paragraph 1 or 2 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1; or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 2.
- (5) The harmful articles and objects shall be confiscated.

#### Article 225

##### **IRRESPONSIBLE INSPECTION OF MEAT DESTINED FOR CONSUMPTION**

- (1) A veterinarian or any other authorised veterinary worker who, during the inspection of animals destined to be butchered or of meat destined for consumption, acts contrary to professional standards or in violation of the applicable provisions on standards of veterinarian practice, or does not carry out the inspection and thereby enables the circulation of meat harmful to people's health shall be punished by imprisonment of up to one year.
- (2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year.
- (3) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or any serious impairment to the health of a person, the perpetrator shall be punished by imprisonment of one to eight years, in the case of the offence provided for in paragraph 1 or by imprisonment of up to three years, in the case of the offence provided for in paragraph 2.
- (4) When the offence provided for in paragraph 1 or 2 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to

twelve years, in the case of the offence provided for in paragraph 1 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 2.

#### Article 226

##### **POLLUTION OF DRINKING WATER**

(1) Whoever by means of any noxious substance pollutes water used by people for drinking purposes and in this way endangers human life or health shall be punished by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to three months.

(3) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or serious impairment to health, the perpetrator shall be punished by imprisonment of up to eight years, in the case of the offence provided for in paragraph 1 or by imprisonment of up to three years, in the case of the offence provided for in paragraph 2.

(4) When the offence provided for in paragraph 1 or 2 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 2.

(5) Whoever by means of any noxious substance pollutes water intended for use by animals, and thereby endangers the life or health of animals shall be punished by a fine or by imprisonment of up to one year.

(6) When the offence provided for in paragraph 5 of the present article results in the death of animals of a value exceeding 10,000 euro or the death of a large number of animals, the perpetrator shall be punished by imprisonment of up to three years.

#### Article 227

##### **POLLUTION OF FOOD PRODUCTS USED BY PEOPLE OR ANIMALS**

(1) Whoever pollutes food products with any noxious substance, and thereby endangers human life or health shall be punished by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to three months.

(3) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury to one or more persons, the perpetrator shall be punished by imprisonment of up to eight years, in the case of the offence provided for in paragraph 1 or by imprisonment of up to three years in the case of offence provided for in paragraph 2.

(4) When the offence provided for in paragraph 1 or 2 of the present article results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1 or by imprisonment of one to eight years, in the case of the offence provided for in paragraph 2.

(5) Whoever pollutes with any noxious substance the food of animals which are destined for human consumption and thereby endangers human life or health shall be punished by a fine or by imprisonment of up to one year.

(6) When the offence provided for in paragraph 5 of the present article results in the death of animals of a value exceeding 10,000 euro or the death of a large number of animals, the perpetrator shall be punished by imprisonment of up to three years.

#### Article 228

##### **SERVING ALCOHOLIC BEVERAGES TO PERSONS UNDER THE AGE OF SIXTEEN YEARS**

(1) Whoever, in a hotel, bar or any other store in which alcoholic beverages are sold, serves a person under the age of sixteen years with alcoholic beverages shall be punished by a fine or by imprisonment of up to six months.

(2) When the criminal offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to three months.

#### Article 229

##### **UNAUTHORISED PURCHASE, POSSESSION, DISTRIBUTION AND SALE OF DANGEROUS NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES**

(1) Whoever, without authorisation, purchases or possesses with the intent to sell or distribute or offers for sale substances or preparations which have been declared to be dangerous narcotic drugs or psychotropic substances shall be punished by a fine and by imprisonment of one to five years.

(2) Whoever, without authorisation, distributes, sells, transports or delivers substances or preparations which have been declared to be dangerous narcotic drugs or psychotropic substances, with the intent that they shall be distributed, sold or offered for sale shall be punished by a fine and by imprisonment of one to eight years.

(3) Whoever, without authorisation, exports or imports substances or preparations which have been declared to be dangerous narcotic drugs or psychotropic substances shall be punished by a fine and by imprisonment of three to ten years.

(4) When the offence provided for in paragraphs 1, 2 or 3 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by a fine and by imprisonment of three to fifteen years:

- 1) The perpetrator is acting as a member of a group;

- 2) The perpetrator is a member of the police force or responsible for law enforcement;
  - 3) The perpetrator is an official person acting in the exercise of his or her duties;
  - 4) The perpetrator uses or threatens to use violence or a weapon in the course of committing the offence;
  - 5) The act is committed by exploiting a child, or to the detriment of a such person;
  - 6) The act is committed against a person who is particularly vulnerable by reason of age, illness, physical or mental disability or disorder, or pregnancy which is known or evident to the perpetrator;
  - 7) A shipment, consignment, container or vehicle intended for a humanitarian operation is used for the unlawful transport of narcotic drugs or psychotropic substances;
  - 8) The perpetrator mixes the narcotic drug or psychotropic substance with other substances so as to aggravate the danger to health;
  - 9) The perpetrator intoxicates another person with a narcotic drug or psychotropic substance without this person's knowledge.
- (5) The narcotic drugs or psychotropic substances shall be confiscated.

#### Article 230

#### **UNAUTHORISED PRODUCTION AND PROCESSING OF DANGEROUS NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES**

- (1) Whoever, without authorisation, cultivates, produces, processes, extracts or prepares substances or preparations which have been declared to be dangerous narcotic drugs or psychotropic substances with the intent to sell, distribute or offer them for sale shall be punished by a fine and by imprisonment of one to ten years.
- (2) Whoever, without authorisation, sells an analogue or processes an analogue with the intent to sell, distribute or offer it for sale shall be punished by a fine and by imprisonment of six months to three years.
- (3) Whoever, without authorisation, sells or supplies equipment or materials with the knowledge that they have been used or they will be used for the unlawful cultivation, production or processing or trafficking of any substance or preparation which has been declared to be a dangerous narcotic drug or psychotropic substance or any analogue, shall be punished by a fine and by imprisonment of one to three years.
- (4) When the offence provided for in paragraph 1, 2 or 3 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by imprisonment of three to thirteen years, or by a fine and imprisonment, if:



- 1) The perpetrator is acting as a member of a group;
  - 2) The perpetrator is a member of the police force or is responsible for law enforcement;
  - 3) The perpetrator is an official person acting in the exercise of his or her duties;
  - 4) The act is committed by exploiting a child, or to the detriment of such person;
  - 5) The perpetrator mixes the dangerous narcotic drug or psychotropic substance with other substances so as to aggravate the danger to health.
- (5) The narcotic drug, psychotropic substance, analogue or the means of their production shall be confiscated.
- (6) For the purpose of the present article and Article 231, the term “analogue” means any substance which is not otherwise authorised and whose chemical structure is substantially similar to that of substances or preparations which have been declared to be dangerous narcotic drugs or psychotropic substances whose effects it reproduces.

#### Article 231

#### **FACILITATING ACQUISITION OR USE OF DANGEROUS NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES OR ANALOGUES**

- (1) Whoever administers dangerous narcotic drugs, psychotropic substances or analogues and due to his or her function facilitates their acquisition or use in violation of the law shall be punished by imprisonment of six months to five years.
- (2) A manager or owner of any establishment or other closed premises used by the public who permits or tolerates the use of dangerous narcotic drugs, psychotropic substances or analogues, shall be punished by imprisonment of three months to five years.

### **CHAPTER XXII: CRIMINAL OFFENCES AGAINST THE ECONOMY**

#### Article 232

#### **VIOLATING RIGHT OF EQUALITY IN EXERCISING ECONOMIC ACTIVITY**

Whoever, through abuse of official duty or authorisations, limits the free movement of capital in the territory of Kosovo, or denies or limits the right of a business organization or legal person to engage in the circulation of merchandise or services in the territory of Kosovo, or places a business organization or legal person in an unequal position with respect to another business organization or legal person in relation to working conditions or the circulation of merchandise or services, or limits the free exchange of merchandise or services, and thereby causes considerable profit for one business organization or legal person or great damage to another shall be punished by imprisonment of three months to three years.

## Article 233

**IRRESPONSIBLE ECONOMIC ACTIVITY**

(1) A responsible person within a business organization or legal person who, by consciously violating the law or other provision relating to business activities, acts in an irresponsible way and thereby causes substantial material damage to the business organization or legal person shall be punished by a fine or by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 of the present article results in the compulsory liquidation or the bankruptcy of that business organization or legal person, the perpetrator shall be punished by imprisonment of six months to five years.

## Article 234

**CAUSING BANKRUPTCY**

A responsible person within a business organization or legal person who, knowing of the insolvency of the business organization or legal person, causes its bankruptcy by the unreasonable expenditure of resources or their transfer at gross undervalue, by running into excessive debt, by assuming excessive obligations, by concluding or renewing unreasonable contracts with insolvent entities or by failing to enforce claims in a timely manner, shall be punished by imprisonment of six months to five years.

## Article 235

**DAMAGING CREDITORS**

(1) A responsible person within a business organization or legal person who knows of the insolvency of the business organization or legal person and who, through the payment of debts or in any other way, places one creditor in a more favourable position and thereby greatly damages other creditors shall be punished by imprisonment of up to three years.

(2) A responsible person within a business organization or legal person who knows of the insolvency of the business organization or legal person and, in order to deceive or cause damage to a creditor, accepts a false claim, enters into false contracts or commits any other fraudulent act, thereby damaging a creditor of the business organization or legal person shall be punished by imprisonment of six months to five years.

(3) When the offence provided for in paragraph 1 or 2 of the present article results in damage exceeding 250,000 euro or when, as a result, the injured party is forced to undergo a reorganization or bankruptcy procedure, the perpetrator shall be punished by imprisonment of one to ten years.

## Article 236

**MISUSE OF ECONOMIC AUTHORISATIONS**

(1) A responsible person within a business organization or legal person which engages in an economic activity shall be punished by imprisonment of six months to five years if he or she commits one of the following acts with the intent to obtain an unlawful material benefit

for the business organization or legal person where he or she is employed or for another business organization or legal person:

- 1) Creates or holds illicit funds in Kosovo or in any other jurisdiction;
- 2) Through the compilation of documents with a false content, false balance sheets, false evaluations, inventories or any other false representations or through the concealment of evidence falsely represents the flow of assets or the results of the economic activity and in this way misleads the managing bodies within the business organization or legal person to err in decision-making on management activities;
- 3) Fails to meet tax obligations or other fiscal obligations as determined by law in Kosovo;
- 4) Uses means at his or her disposal contrary to their foreseen purpose; or
- 5) In any other way seriously violates the law or the rules of business activity which relate to the disposal, use or management of property.

(2) When the offence provided for in paragraph 1 of the present article results in material benefits exceeding 100,000 euro, the perpetrator shall be punished by imprisonment of one to eight years.

#### Article 237

##### **ENTERING INTO HARMFUL CONTRACTS**

(1) A representative or an authorised person of a business organization or legal person which engages in an economic activity who enters into a contract that he or she knows to be harmful for the business organization or legal person, or enters into a contract contrary to his or her authorisations and thereby causes damage to the business organization or legal person shall be punished by imprisonment of three months to three years.

(2) When the perpetrator of the offence provided for in paragraph 1 of the present article accepts a bribe or causes damage exceeding 100,000 euro, the perpetrator shall be punished by imprisonment of one to ten years.

#### Article 238

##### **UNAUTHORISED COMMUNICATION OF TRADE SECRETS**

(1) Whoever, in violation of his or her duties to protect trade secrets, communicates or conveys information about a trade secret to another person or otherwise enables another person to access such information or collects such information with the intent to convey it to an unauthorised person shall be punished by imprisonment of up to three years.

(2) Whoever, with the intent to use in an unauthorised way, unlawfully acquires information that is protected as a trade secret, shall be punished with the same punishment as in paragraph 1 of the present article.

- (3) When the information provided for in paragraph 1 or 2 of the present article is of such special importance or if it is conveyed to another person with the intent to transmit such information outside of Kosovo or if the act is committed with the intent to obtain a material benefit, the perpetrator shall be punished by imprisonment of up to five years.
- (4) When the offence provided for in paragraph 1 or 3 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of up to one year.
- (5) For the purposes of the present article, the term “trade secret” means information designated as such by law or by the provisions of a business organization or legal person, and which represents a manufacturing secret, the results of research or design work, as well as other information whose disclosure to an unauthorised person could have harmful effects on the economic interests of the business organization or legal person.

#### Article 239

##### **COUNTERFEITING STAMPS OF VALUE AND SECURITIES**

- (1) Whoever produces counterfeit fiscal, postage or other stamps of economic value issued pursuant to laws in Kosovo, alters any of these stamps with the intent to use them as genuine or to give them to another person to use or uses such counterfeit stamps as genuine shall be punished by imprisonment of up to one year.
- (2) When the offence provided for in paragraph 1 of the present article involves stamps of a value exceeding 10,000 euro, the perpetrator shall be punished by imprisonment of up to three years.
- (3) Whoever produces counterfeit securities issued pursuant to laws in Kosovo or alters any of these securities with the intent to use them as genuine or gives them to another person to use or uses such counterfeit securities as genuine shall be punished by imprisonment of three months to five years.
- (4) Whoever removes a cancelling stamp from a stamp of value referred to in paragraph 1 of the present article, or in some other way and for the purpose of repeated use, attempts to make such stamp appear as if it has never been used before, or uses a used stamp or sells it as valid, shall be punished by imprisonment for a term not exceeding three years.
- (5) An attempt of the criminal offence provided for in paragraph 1, 2 or 4 of the present article shall be punishable.
- (6) Counterfeit stamps of value and securities shall be confiscated.

#### Article 240

##### **VIOLATING PATENT RIGHTS**

- (1) Whoever, in the course of engaging in an economic activity, uses without authorisation, a patent registered or protected by law or a registered topography of a circuit of a semi-conductor shall be punished by a fine or by imprisonment of up to three years.

(2) The objects provided for in paragraph 1 of the present article manufactured for unauthorised use shall be confiscated.

#### Article 241

##### **UNAUTHORISED USE OF TRADE NAME, TRADEMARK OR DESIGN**

(1) Whoever, in the course of engaging in an economic activity and with the intent to deceive purchasers or consumers of services, uses another's trade name or trademark, another's goods trademark or services trademark or another's trademark related to geographical origin or any other special trademark of goods or components thereof in his or her own trade name, trademark, or special trademark of goods shall be punished by imprisonment of up to two years.

(2) Whoever, with the intent to deceive purchasers, uses in production another's sample or another's model without authorisation or distributes articles manufactured in this way shall be punished as provided for in paragraph 1 of the present article.

(3) The objects provided for in paragraphs 1 and 2 of the present article shall be confiscated.

#### Article 242

##### **DEFRAUDING BUYERS**

(1) Whoever, with the intent to defraud purchasers, distributes products stamped with written data that does not correspond to the content, type, origin or quality of the product, distributes products whose weight or quality does not correspond to what is regularly expected in such products or distributes products without a stamp indicating the content, type, origin, or quality for the product when such a stamp is required by law shall be punished by a fine or by imprisonment of up to three years.

(2) Whoever, with the intent to defraud purchasers, falsely declares a reduction in price or an expected increase in the price of goods or in any other way openly uses false advertisement shall be punished by a fine or by imprisonment of up to one year.

#### Article 243

##### **ORGANIZING PYRAMID SCHEMES AND UNLAWFUL GAMBLING**

(1) Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, organizes, participates or assists in organizing gambling or activities where participants pay certain sums of money to the other participants who joined the gambling or activity and who expect a certain sum of money to be paid by participants who are expected to join such gambling or activities shall be punished by imprisonment of up to three years.

(2) Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, organizes, participates or assists in organizing gambling, casino-type gambling or games of chance for which no licence, permit or concession by a competent

authority has been issued shall be punished with the same punishment as in paragraph 1 of the present article.

(3) When the offence provided for in paragraph 1 or 2 of the present article results in material damage exceeding 25,000 euro, the perpetrator shall be punished by imprisonment of two to twelve years.

(4) For the purposes of the present article,

- 1) The term “casino-type gambling” shall mean a game or activity involving chance, traditionally conducted at a casino, in which money or other items of value are transferred based on the outcome of the game or activity and includes, but is not limited to, roulette, craps, poker, slot machines, blackjack, keno and electronic, mechanical, or video machines offering such games.
- 2) The term “games of chance” means any business activity offered to the general public involving chance and luck, including but not limited to, lotteries, raffles, bingo games, slot machines, bookmaking, number games, merchandise wheels and scratch cards in which monetary and other prizes are awarded on the basis of a result determined by chance.

#### Article 244

##### **COUNTERFEIT MONEY**

(1) Whoever produces counterfeit money with the intent to distribute it as genuine, or alters genuine money with the intent to distribute it or distributes such counterfeit money shall be punished by imprisonment of one to ten years.

(2) Whoever procures counterfeit money with the intent to distribute it as genuine shall be punished as provided for in paragraph 1 of the present article.

(3) Whoever puts into circulation counterfeit money with the knowledge that such money is counterfeit or whoever has knowledge of counterfeit money being made or put into circulation and fails to report it shall be punished by a fine or by imprisonment of up to one year.

(4) The counterfeit money, as well as the equipment for their manufacturing, shall be confiscated.

#### Article 245

##### **MANUFACTURING AND USE OF FALSE MARKS, MEASURES AND WEIGHTS**

(1) Whoever, with the intent to use them as genuine, manufactures false marks to label goods, as well as seals or stamps for the marking of gold, silver, livestock, wood or some other good, or alters such genuine marks, or uses false marks as genuine shall be punished by imprisonment of three months to five years.

- (2) Whoever counterfeits measures or weights shall be punished as provided for in paragraph 1 of the present article.
- (3) Whoever, without authorisation, supplies, sells or provides instruments to manufacture stamps for the marking of goods or false measures and weights shall be punished by imprisonment of up to three years.
- (4) The false marks, stamps, measures and weights, as well as the equipment for their manufacturing, shall be confiscated.

#### Article 246

##### **PROHIBITED TRADE**

- (1) Whoever, without authorisation, sells, buys or trades goods or objects whose distribution is prohibited or restricted shall be punished by imprisonment of three months to three years.
- (2) When the perpetrator of the offence provided for in paragraph 1 of the present article has organized a network of sellers or brokers or has acquired a profit exceeding 15,000 euro, the perpetrator shall be punished by imprisonment of six months to five years.
- (3) Goods and objects from prohibited trade shall be confiscated.

#### Article 247

##### **PROHIBITED PRODUCTION**

- (1) Whoever, without authorisation, produces or processes goods whose production or processing is prohibited shall be punished by a fine or by imprisonment of up to three years.
- (2) Goods and the equipment for their production or the processing shall be confiscated.

#### Article 248

##### **ISSUING UNCOVERED OR FALSE CHEQUES AND ABUSE OF BANK OR CREDIT CARDS**

- (1) Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, provides or circulates a cheque which he or she knows is not covered by funds, a false cheque or a counterfeit credit card and in this way realizes a material benefit shall be punished by imprisonment of up to three years.
- (2) Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, uses a bank card in a bank machine to draw money in cash even though he or she knows that such a withdrawal is not covered in the current account or uses a credit card even though he or she knows that upon payment he or she will not be able to provide the amount in question and in this way realizes a material benefit shall be punished as provided for in paragraph 1 of the present article.
- (3) When the offence provided for in paragraph 1 or 2 of the present article results in a material benefit exceeding 15,000 euro, the perpetrator shall be punished by imprisonment of six months to five years.

## Article 249

**TAX EVASION**

(1) Whoever, with the intent that he or she or another person evade, partially or entirely, the payment of taxes, tariffs or contributions provided for by the law, provides false information or omits information regarding his or her income, economic wealth or other relevant facts for the assessment of such obligations shall be punished by a fine and by imprisonment of up to three years.

(2) When the obligation provided for in paragraph 1 of the present article whose payment has been evaded exceeds the sum of 15,000 euro, the perpetrator shall be punished by a fine and by imprisonment of six months to five years.

## Article 250

**UNJUSTIFIED ACCEPTANCE OF GIFTS**

(1) Whoever, in the course of engaging in an economic activity, requests or accepts a disproportionate reward, gift or any other benefit in order to neglect the interests of his or her business organization or legal person or to cause damage to the same when concluding a contract or agreeing to performing a service shall be punished by a fine or by imprisonment of up to three years.

(2) Whoever, in committing the offence provided for in paragraph 1 of the present article, requests or accepts a disproportionate reward, gift or other benefit for himself or any third person in exchange for concluding a contract or agreeing to performing a service shall be punished by imprisonment of up to three years.

(3) Whoever, in committing the offence provided for in paragraph 1 of the present article, requests or accepts a reward, gift or any other benefit after the contract is concluded or the service is performed shall be punished by imprisonment of up to one year.

(4) The accepted gift or reward shall be confiscated.

## Article 251

**UNJUSTIFIED GIVING OF GIFTS**

(1) Whoever gives, attempts to give or promises a disproportionate reward, gift or any other benefit to a person engaging in an economic activity in order to neglect the interests of his or her business organization or legal person or to cause damage to such business organization or legal person when concluding a contract or performing a service shall be punished by imprisonment of up to three years.

(2) Whoever gives, attempts to give or promises a disproportionate reward, gift or any other benefit to a person engaging in an economic activity in order to acquire any unjustified advantage for concluding a contract or performing a service shall be punished by imprisonment of up to one year.



- (3) If the perpetrator of the offence provided for in paragraph 1 or 2 gives a reward or a gift according to a request and reports the offence before it was discovered or before he or she found out that it was discovered, the court may waive the punishment.
- (4) The reward or gift given shall be confiscated, except in the case provided for in paragraph 3 of the present article where it can be returned to the person who gave it.

## **CHAPTER XXIII: CRIMINAL OFFENCES AGAINST PROPERTY**

### **Article 252**

#### **THEFT**

- (1) Whoever takes the movable property of another person with the intent to unlawfully appropriate it for himself, herself or for another person shall be punished by a fine or by imprisonment of up to three years.
- (2) An attempt of the offence provided for in paragraph 1 of the present article shall be punishable.
- (3) If the perpetrator returns the stolen property before he or she learns that a criminal prosecution has been initiated, the court may waive the punishment.

### **Article 253**

#### **AGGRAVATED THEFT**

- (1) Whoever commits theft, as provided for in Article 252(1), shall be punished by imprisonment of six months to five years if the offence was committed in the following manner:
- 1) By breaking into locked buildings, rooms, boxes, trunks or other locked premises through the use of force or the removal of obstacles with the intent to appropriate movable property,
  - 2) By acting in a particularly dangerous or brazen manner;
  - 3) By exploiting a situation created as a result of fire, flood, earthquake, or any other disaster; or
  - 4) By taking advantage of the incapacity or any other grave condition of another person.
- (2) Whoever commits theft, as provided for in Article 252(1), shall be punished as provided for in paragraph 1 of the present article:
- 1) When the stolen property is of a value exceeding 15,000 euro and the perpetrator acts with the intent to appropriate the object of such value;

- 2) When the stolen property serves a religious function, or it is stolen from religious premises or other premises where religious ceremonies are carried out;
  - 3) When the stolen property is of cultural value or of special scientific, technical, or artistic importance or when it is part of a public collection, a protected private collection or a public exhibition.
- (3) Whoever commits theft, as provided for in Article 252(1) of the present Code, as a member of a group or while carrying a weapon or dangerous instrument shall be punished by imprisonment of one to eight years.

#### Article 254

##### **THEFT IN THE NATURE OF ROBBERY**

- (1) Whoever, surprised in the commission of theft and with the intent to retain possession of the stolen property, uses force or threat to attack the life or body of another person shall be punished by imprisonment of one to ten years.
- (2) When the offence provided for in paragraph 1 of the present article is committed by the perpetrator acting as a member of a group or by using a weapon or dangerous instrument, the perpetrator shall be punished by imprisonment of three to twelve years.

#### Article 255

##### **ROBBERY**

- (1) Whoever, by use of force against another person or threat of immediate attack against the life or body of another person, appropriates the movable property of such person with the intent to obtain an unlawful material benefit for himself or herself or another person shall be punished by imprisonment of one to ten years.
- (2) When the offence provided for in paragraph 1 of the present article involves a stolen object of a value exceeding 10,000 euro and if the perpetrator intends to appropriate an object of such value, the perpetrator shall be punished by imprisonment of at least three years.
- (3) When the offence provided for in paragraph 1 of the present article is committed by the perpetrator as a member of a group or by using a weapon or dangerous instrument, the perpetrator shall be punished by imprisonment of three to twelve years.

#### Article 256

##### **GRAVE CASES OF THEFT IN THE NATURE OF ROBBERY OR ROBBERY**

- (1) When the commission of theft in the nature of robbery or of robbery results in serious bodily injury or is committed by an armed group or involves the use of a weapon or dangerous instrument, the perpetrator shall be punished by imprisonment of at least five years.

(2) When the commission of theft in the nature of robbery or of robbery results in the intentional deprivation of the life of any person, the perpetrator shall be punished by imprisonment of at least ten years or by long-term imprisonment.

#### Article 257

##### **MISAPPROPRIATION**

(1) Whoever, with the intent to obtain an unlawful material benefit for himself or herself or another person, appropriates the movable property of another person that has been entrusted to him or her shall be punished by a fine or by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article is committed by a guardian, the perpetrator shall be punished by a fine or by imprisonment of up to three years.

(3) When the value of the appropriated property exceeds 15,000 euro, the perpetrator shall be punished by imprisonment of one to five years.

(4) When the appropriated property has a special scientific, cultural or historical value, the perpetrator shall be punished by imprisonment of one to eight years.

(5) Whoever unlawfully appropriates the movable property of another person which he or she has found or accidentally came into possession of, with the intent to obtain an unlawful material benefit for himself or herself or another person shall be punished by a fine or by imprisonment of up to one year.

(6) Criminal proceedings for the offence provided for in paragraph 1, 2 or 5 of the present article shall be initiated following a motion.

#### Article 258

##### **TAKING POSSESSION OF MOVABLE PROPERTY**

(1) Whoever unlawfully takes the movable property of another person to keep it under possession but without the intent to appropriate it, shall be punished by a fine or by imprisonment of up to six months.

(2) An attempt of the offence provided for in paragraph 1 of the present article shall be punishable if it involves the taking of a motor vehicle of another person.

(3) Criminal proceedings for the offence provided for in paragraph 1 of the present article shall be initiated based on a private prosecution or in the case of property that is under the ownership or administration of a public entity, following a motion.

#### Article 259

##### **UNLAWFUL OCCUPATION OF REAL PROPERTY**

(1) Whoever unlawfully occupies the real property of another person or any part thereof shall be punished by a fine or by imprisonment of up to one year.

(2) When the occupied real property is part of a protected forest, a protected park or other forest with a special purpose or construction grounds, the perpetrator shall be punished by imprisonment of three months to three years.

#### Article 260

##### **DAMAGE TO MOVABLE PROPERTY**

(1) Whoever damages, annihilates or renders unusable the movable property of another person shall be punished by a fine or by imprisonment of up to six months.

(2) When the offence provided for in paragraph 1 of the present article is motivated by bias relating to ethnicity, nationality, race, religion, gender, sexual orientation or language, the perpetrator shall be punished by a fine or by imprisonment of up to one year.

#### Article 261

##### **FRAUD**

(1) Whoever, with the intent to obtain a material benefit for himself, herself or another person, deceives another person or keeps such person in deception by means of a false representation or by concealing facts and thereby induces such person to do or abstain from doing an act to the detriment of his or her property or another person's property shall be punished by a fine or by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 of the present article results in damage exceeding 15,000 euro, the perpetrator shall be punished by imprisonment of six months to five years.

#### Article 262

##### **SUBSIDY FRAUD**

Whoever provides a competent authority with incorrect or incomplete information which is crucial to the granting of a subsidy, conceals such information in violation of an obligation to disclose such information to a competent authority or misuses such a subsidy shall be punished by a fine or by imprisonment of up to five years.

#### Article 263

##### **MISUSE OF INSURANCE**

(1) Whoever, with the intent to collect insurance money from an insurer, destroys, damages, or hides property insured against destruction, damage, loss or theft and then reports such destruction, damage, loss or theft shall be punished by a fine or by imprisonment of up to one year.

(2) Whoever, with the intent to collect insurance money for bodily injury or impairment of health from an insurer, inflicts on himself or herself such injury or impairment and then reports the injury or impairment shall be punished as provided for in paragraph 1 of the present article.

- (3) An attempt of the criminal offence provided for in paragraph 1 of the present article shall be punishable.
- (4) Criminal proceedings for the offence provided for in paragraph 1 or 2 of the present article shall be initiated following a motion.
- (5) If the perpetrator abandons his or her compensation claim before he or she has been informed that his or her fraud has been discovered, the court may waive the punishment.

#### Article 264

##### **INTRUSION INTO COMPUTER SYSTEMS**

- (1) Whoever, without authorisation and with the intent to obtain an unlawful material benefit for himself, herself or another person or to cause damage to another person, alters, publishes, deletes, suppresses or destroys computer data or programmes or in any other way intrudes into a computer system shall be punished by a fine or by imprisonment of up to three years.
- (2) When the offence provided for in paragraph 1 of the present article results in substantial material benefit or substantial material damage exceeding 15,000 EUR, the perpetrator shall be punished by imprisonment of six months to five years.
- (3) Criminal prosecution for the offence provided for in the present article shall be initiated following a motion.

#### Article 265

##### **LESSER OFFENCES OF THEFT, MISAPPROPRIATION OR FRAUD**

- (1) Whoever commits a lesser offence of theft, misappropriation or fraud, shall be punished by a fine or by imprisonment of up to six months.
- (2) A lesser offence of theft, misappropriation, or fraud is committed when the value of the stolen or appropriated property or of the damage caused by fraud does not exceed 25 euro and the perpetrator intended to appropriate an object of such value or to cause damage of such value.
- (3) Criminal proceedings for a lesser offence provided for in paragraph 1 of the present article shall be initiated based on a private prosecution.

#### Article 266

##### **WAIVER OF PUNISHMENT**

When the perpetrator of the offence provided for in Article 257, 258, 265 or 269 of the present Code returns the stolen property which he or she took possession of or appropriated before being informed of the initiation of the criminal proceedings, the court may waive the punishment.

## Article 267

**EXTORTION**

- (1) Whoever, with the intent to obtain an unlawful material benefit for himself, herself or another person, uses force or serious threat to compel another person to do or abstain from doing an act to the detriment of his or her property or another person's property shall be punished by imprisonment of three months to five years.
- (2) When the offence provided for in paragraph 1 of the present article is committed by a perpetrator acting as a member of a group, is committed using a weapon or a dangerous instrument or results in a great material benefit, the perpetrator shall be punished by imprisonment of one to ten years.

## Article 268

**BLACKMAIL**

- (1) Whoever, with the intent of obtaining an unlawful material benefit for himself, herself or another person, threatens another person to reveal something about him or her or about persons close to him or her which will damage their honour or reputation, and in this way compels such person to do or abstain from doing an act to the detriment of his or her property or another person's property shall be punished by imprisonment of three months to five years.
- (2) When the offence provided for in paragraph 1 of the present article is committed by a perpetrator acting as a member of a group, is committed using a weapon or a dangerous instrument or results in a great material benefit, the perpetrator shall be punished by imprisonment of one to ten years.

## Article 269

**BREACH OF TRUST**

- (1) Whoever, in representing the property interests of another person or taking care of his or her property, fails to perform his or her duty or misuses his or her authorisations with the intent of obtaining an unlawful material benefit for himself, herself or another person or to cause damage to the person whose property interests he or she is representing or whose property is under his or her care shall be punished by a fine or by imprisonment of up to three years.
- (2) When the offence provided for in paragraph 1 of the present article is committed by a guardian or an attorney, the perpetrator shall be punished by imprisonment of three months to five years.

## Article 270

**CONTRACTING FOR DISPROPORTIONATE PROFIT FROM PROPERTY**

Whoever, on behalf of himself, herself or another person, accepts or negotiates an evidently disproportionate amount of property in return for a service to another person, by taking advantage of such person's difficult financial circumstances, difficult housing circumstances,

hardship, inexperience or inability to make judgments shall be punished by a fine or by imprisonment of up to three years.

#### Article 271

##### **DAMAGING ANOTHER PERSON'S RIGHTS**

(1) Whoever, for the purpose of frustrating the satisfaction of a claim on property, conveys, destroys or takes away an object on his or her property in which another person has an interest based on a mortgage or a usufructuary right and thereby causes damage to such person shall be punished by a fine or by imprisonment of up to one year.

(2) Whoever, with the intent to obstruct the settlement of a debt to the creditor in the course of an execution by force, conveys, destroys or conceals part of the property and thereby damages the creditor shall be punished as provided for in paragraph 1 of the present article.

#### Article 272

##### **RECEIVING STOLEN GOODS**

(1) Whoever purchases, accepts as collateral for a mortgage or in some other way procures or hides an object which he or she knows has been obtained by the commission of a criminal offence or an object which has been obtained for that object by sale or exchange shall be punished by imprisonment of up to one year.

(2) Whoever purchases, accepts as a mortgage or in some other way procures or hides an object which he or she could have known has been obtained by the commission of a criminal offence or an object which has been obtained for that object by sale or exchange shall be punished by a fine or by imprisonment of up to six months.

(3) An attempt to commit the offence provided for in paragraph 1 or 2 of the present article shall be punishable.

#### Article 273

##### **SMUGGLING OF GOODS**

(1) Whoever, without authorisation or license, trades or otherwise transports goods into or out of Kosovo shall be punished by a fine or by imprisonment of up to three years.

(2) The smuggled goods shall be confiscated.

#### Article 274

##### **ORGANIZED CRIME**

(1) Whoever commits a serious crime as part of an organized criminal group shall be punished by a fine of up to 250,000 euro and by imprisonment of at least seven years.

- (2) Whoever actively participates in the criminal or other activities of an organized criminal group, knowing that his or her participation will contribute to the commission of serious crimes by the organized criminal group, shall be punished by imprisonment of at least five years.
- (3) Whoever organizes, establishes, supervises, manages or directs the activities of an organized criminal group shall be punished by a fine of up to 500,000 euro and by imprisonment of seven to twenty years.
- (4) Whoever commits the offence provided for in paragraph 2 of the present article shall be punished by a fine of up to 500,000 euro and by imprisonment of at least ten years or by long-term imprisonment if the activities of the organized criminal group result in death.
- (5) The court may waive the punishment of a perpetrator who commits the offence provided for in paragraph 2 or 3 of the present article if, before the group has committed a crime, such person reports to the police or public prosecutor the existence, formation and information of the organized criminal group in detail to allow the police to arrest or the prosecutor to prosecute the group.
- (6) Whoever is punished by the accessory punishment provided for in Article 57 of the present Code for the commission of a criminal offence provided for in the present Article and violates the terms of such accessory punishment shall be punished by imprisonment of up to one year.
- (7) For the purposes of the present article,
- 1) The term “organized crime” means a serious crime committed by a structured group in order to obtain, directly or indirectly, a financial or other material benefit.
  - 2) The term “organized criminal group” means a structured group existing for a period of time and acting in concert with the aim of committing one or more serious crimes in order to obtain, directly or indirectly, a financial or other material benefit.
  - 3) The term “serious crime” means an offence punishable by imprisonment of at least four years.
  - 4) The term “structured group” means a group of three or more persons that is not randomly formed for the immediate commission of an offence and does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

#### Article 275

#### **PROSECUTION IN CASES WHEN THE PERPETRATOR HAS A DOMESTIC RELATIONSHIP WITH THE VICTIM**

When the offence provided for in Article 252, 253, 257(1), 258(1) or (2), 260, 261, 269(1) or 271 of the present Code is committed against a person with whom the perpetrator has a domestic relationship, criminal proceedings shall be initiated following a motion.



**CHAPTER XXIV: CRIMINAL OFFENCES AGAINST THE ENVIRONMENT, ANIMALS, PLANTS AND CULTURAL OBJECTS**

## Article 276

**POLLUTION OR DESTRUCTION OF THE ENVIRONMENT**

- (1) Whoever, in breach of the law, pollutes or degrades the environment or excessively uses or exploits natural resources and in this way jeopardises the environment or the life or health of a great number of people shall be punished by imprisonment of up to two years.
- (2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year.
- (3) When the offence provided for in paragraph 1 or 2 of the present article results in the impairment to health of a great number of people or the complete or partial destruction of flora or fauna or reservoirs of drinking water or any other damage to the environment with serious consequences or an increase in pollution to a critical level or critical damage to the environment, the perpetrator shall be punished by imprisonment of up to five years, in the case of the offence provided for in paragraph 1 of the present article or by imprisonment of up to two years, in the case of the offence provided for in paragraph 2 of the present article.
- (4) When the offence provided for in paragraph 1 or 2 of the present article results in irreparable damage or destruction of the environment or endangerment of protected natural resources, the perpetrator shall be punished by imprisonment of up to eight years, in the case of the offence provided for in paragraph 1 of the present article or by imprisonment of up to five years, in the case of the offence provided for in paragraph 2 of the present article.

## Article 277

**UNLAWFUL HANDLING OF HAZARDOUS SUBSTANCES AND WASTE**

- (1) Whoever, in breach of the law on protecting the environment, disposes of, handles, stores, transports, exports or imports hazardous substances or waste likely to cause the death or serious bodily injury of any person or substantial damage to the quality of the air, soil, or water or to animals, plants or property shall be punished by a fine or by imprisonment of one to three years.
- (2) Whoever, in breach of the law on protecting the environment, disposes of, handles, stores, transports, exports or imports radioactive substances or waste which can cause the death or serious bodily injury of any person or substantial damage to the quality of air, soil or water or to animals or plants or property shall be punished by a fine or by imprisonment of one to five years.
- (3) When the offence provided for in paragraph 1 or 2 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year, in the case of the offence provided for in paragraph 1 or by a fine or by imprisonment of up to two years, in the case of the offence provided for in paragraph 2 of the present article.
- (4) When the offence provided for in the present article results in death or serious bodily injury to any person or damage to property, animals or plants, or the degradation of the

quality of the air, water or soil, the perpetrator shall be punished by a fine and by imprisonment of one to twelve years, in the case of the offence provided for in paragraph 1 or 2 of the present article or by imprisonment of up to eight years, in the case of the offence provided for in paragraph 3 of the present article.

#### Article 278

##### **UNLAWFUL OPERATION OF HAZARDOUS INSTALLATIONS**

(1) Whoever, in breach of the law on protecting the environment, operates or manages a plant or an installation in which a hazardous activity is carried out and thereby causes potential death or serious bodily injury to any person or substantial damage to the quality of the air, soil or water or damage to animals or plants or property shall be punished by a fine or by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year.

#### Article 279

##### **PRODUCTION, SALE AND CIRCULATION OF HARMFUL SUBSTANCES FOR THE TREATMENT OF ANIMALS**

(1) Whoever produces for the purpose of sale or circulates substances for the treatment or the prevention of disease in animals or birds, where such substances are harmful to their life or health, shall be punished by a fine or by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article results in the death of a great number of animals or birds, the perpetrator shall be punished by imprisonment of three months to three years.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to six months.

#### Article 280

##### **PROVIDING IRRESPONSIBLE VETERINARIAN ASSISTANCE**

(1) A veterinarian or an authorised assistant of a veterinarian who, in providing veterinarian assistance, prescribes or administers a clearly inappropriate preparation or a clearly incorrect method of treatment or in general violates the rules of the veterinary profession in the process of treatment and thereby causes sickness, a deterioration of sickness or the death of an animal shall be punished by imprisonment of up to one year.

(2) Whoever commits the offence provided for in paragraph 1 of the present article by negligence shall be punished by a fine or by imprisonment of up to six months.

## Article 281

**FAILURE TO COMPLY WITH ORDERS FOR SUPPRESSING DISEASES IN ANIMALS AND VEGETATION**

- (1) Whoever, at the time of an epidemic which might endanger livestock breeding, fails to comply with an order or decision issued by a competent authority in accordance with the law providing for measures to suppress or prevent disease shall be punished by a fine or by imprisonment of up to one year.
- (2) Whoever, during the period of endangerment of vegetation by disease or pest, fails to comply with an order or decision by a competent authority providing for measures to suppress or prevent disease or pest shall be punished as provided for in paragraph 1 of the present article.
- (3) When the offence provided for in paragraph 1 or 2 of the present article results in substantial damage, the perpetrator shall be punished by a fine or by imprisonment of up to three years.
- (4) When the offence provided for in the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year.

## Article 282

**POLLUTION OF FOOD AND WATER FOR ANIMALS**

- (1) Whoever, by use of a harmful substance, pollutes food or water for animals or pollutes rivers, brooks, springs, wells, cisterns or any other water supply that provides water for livestock, birds or wild animals and thereby endangers the life or health of animals shall be punished by a fine or by imprisonment of up to one year.
- (2) Whoever, by use of a harmful substance, pollutes fish ponds, lakes, rivers and brooks and thereby endangers the survival of animals in the water shall be punished as provided for in paragraph 1 of the present article.
- (3) When the offence provided for in paragraph 1 or 2 of the present article results in the death of a large number of animals or fish of a value exceeding 10.000 EUR, the perpetrator shall be punished by imprisonment of three months to three years.

## Article 283

**DESTRUCTION OF VEGETATION BY HARMFUL SUBSTANCES**

Whoever, by use of a harmful substance, causes the destruction of saplings, trees or other vegetation and thereby causes substantial damage shall be punished by a fine or by imprisonment of up to two years.

## Article 284

**DEVASTATION OF FORESTS**

- (1) Whoever, in breach of the law or an order by a competent authority, cuts or destroys a forest or cuts down trees or in any other way devastates forests shall be punished by a fine or by imprisonment of up to two years.
- (2) When the offence provided for in paragraph 1 of the present article is committed in a protected forest, protected park or any other forest used for a specific purpose the perpetrator shall be punished by a fine or by imprisonment of up to three years.

## Article 285

**FOREST THEFT**

- (1) Whoever, with the intent to steal, cuts down trees in a forest and the quantity of the timber cut down exceeds two cubic meters shall be punished by a fine or by imprisonment of up to one year.
- (2) When the offence provided for in paragraph 1 of the present article is committed with the intent to sell the timber which has been cut down, or if the quantity of the timber cut down exceeds five cubic meters or the offence is committed in a protected forest, protected park or any other forest used for a specific purpose, the perpetrator shall be punished by a fine or by imprisonment of six months to five years.
- (3) An attempt to commit the offence provided for in paragraph 1 of the present article shall be punishable.

## Article 286

**UNLAWFUL HUNTING**

- (1) Whoever, without permission or other authorisation, hunts or kills a wild animal or traps it alive shall be punished by a fine or by imprisonment of up to six months.
- (2) When the offence provided for in paragraph 1 of the present article is committed against prey of a value exceeding 10,000 euro or importance according to hunting regulations or off-season or in a group, the perpetrator shall be punished by a fine or by imprisonment of up to two years.
- (3) Whoever hunts endangered or rare species of animals for which there is a prohibition on hunting or hunts a particular species without a specific hunting license for such species or hunts by using methods of mass extermination or by using a motor vehicle or a strong light shall be punished by a fine or by imprisonment of three months to three years.
- (4) The wild animals and the hunting equipment shall be confiscated.

## Article 287

**SALE OR REMOVAL FROM KOSOVO OF WILD ANIMAL TROPHIES**

- (1) Whoever unlawfully sells or removes from Kosovo a wild animal trophy shall be punished by a fine or by imprisonment of up to two years.
- (2) Whoever unlawfully sells or removes from Kosovo a wild animal trophy acquired from commission of the offences provided for in paragraphs 1 to 3 of Article 286 of the present Code shall be punished by a fine or by imprisonment of up to three years.
- (3) The wild animal trophies shall be confiscated.

## Article 288

**UNLAWFUL FISHING**

- (1) Whoever fishes using explosives, electricity, poison or intoxicating substances and thereby causes the death of fish or fishes in such a way as to harm propagation of fish stocks shall be punished by a fine or by imprisonment of up to one year.
- (2) The fish and the fishing equipment shall be confiscated.

## Article 289

**DAMAGE, DESTRUCTION AND UNAUTHORISED REMOVAL FROM KOSOVO OF PROTECTED MONUMENTS OR OBJECTS**

- (1) Whoever damages or destroys a protected cultural, historical, religious, scientific or natural monument or object shall be punished by imprisonment of up to two years.
- (2) When the offence provided for in paragraph 1 of the present article is committed against a protected cultural, historical, religious, scientific or natural monument or object of special value or results in serious damage, the perpetrator shall be punished by imprisonment of up to three years.
- (3) Whoever, without proper authorisation by a competent authority and in breach of international law, removes from Kosovo a protected cultural, historical, religious, scientific or natural monument or object shall be punished by imprisonment of up to one year.
- (4) When the offence provided for in paragraph 3 of the present article involves a protected cultural, historical, religious, scientific or natural monument or object of special value, the perpetrator shall be punished by imprisonment of up to three years.
- (5) For the purposes of the present article, a “protected cultural, historical, religious, scientific or natural monument or object“ means an object of veneration of a religious community existing on property dedicated to religious services, a tombstone, a public monument, a natural monument, an object of art, science or craft which is kept in a public collection or public exhibition, an object which serves a public need or decorates a public road, square or park, a natural curiosity or an endangered type of animal or plant.

## Article 290

**UNAUTHORISED WORK ON AND APPROPRIATION OF CULTURAL MONUMENTS**

(1) Whoever, without proper authorisation by a competent authority, conducts conservation, restoration or research work on a cultural monument, or, despite a prohibition or without the authorisation of a competent authority, carries out archaeological excavations or research and thereby destroys or seriously damages a cultural monument or characteristics thereof shall be punished by a fine or by imprisonment of up to two years.

(2) When the offence provided for in paragraph 1 of the present article is committed against a cultural monument of particular value or importance or results in great damage, the perpetrator shall be punished by imprisonment of six months to three years.

(3) Whoever, in the course of archaeological or other research, takes possession of or takes away an object which has been excavated or an object which has been found in some other way and which represents a cultural monument shall be punished as provided for in paragraph 2 of the present article.

**CHAPTER XXV: CRIMINAL OFFENCES AGAINST THE GENERAL SECURITY OF PEOPLE AND PROPERTY**

## Article 291

**CAUSING GENERAL DANGER**

(1) Whoever, by using fire, flood, weapons, explosives, poison or poisonous gas, ionizing radiation, mechanical power, electrical power or any other kind of energy causes great danger to human life or to property of substantial value, shall be punished by imprisonment of three months to three years.

(2) An official or a responsible person who, contrary to the provisions on his or her obligations in the workplace, does not install equipment for protection against fire, flood, explosion, poison or poisonous gases, ionising radiation, mechanical power, electrical power or any other kind of energy or fails to maintain such equipment in proper condition or fails to put it to use or in general fails to comply with the rules or technical regulations on protective measures and thereby causes great danger to human life or property of substantial value shall be punished as provided for in paragraph 1 of the present article.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed in a place where a large number of people are gathered, the perpetrator shall be punished by imprisonment of six months to five years.

(4) When the offence provided for in paragraph 1 or 2 is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year.

(5) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of one to eight years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years.

(6) When the offence provided for in paragraph 4 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of up to five years, and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to eight years.

#### Article 292

##### **DESTROYING, DAMAGING OR REMOVING PUBLIC INSTALLATIONS**

(1) Whoever destroys, damages or removes installations or equipment for electricity, gas, water, heating, telecommunications, sewage, environmental protection or pipelines, underwater cables, dams or other similar equipment and in this way causes disturbance to the supply of services to the population or to the economy shall be punished by imprisonment of up to five years.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year.

(3) When the offence provided for in paragraph 1 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of one to ten years, and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years.

(4) When the offence provided for in paragraph 2 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of up to five years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to eight years.

#### Article 293

##### **DESTROYING, DAMAGING OR REMOVING SAFETY EQUIPMENT**

(1) Whoever, in a mine, factory, workshop or other workplace, destroys, damages or removes safety equipment and thereby endangers human life or property of substantial value shall be punished by imprisonment of one to eight years.

(2) A responsible person in a mine, factory, workshop or other workplace who, contrary to the provisions on his or her obligations in the workplace, fails to install safety equipment or maintain it in working condition or fails to use it when necessary, or in general fails to comply with provisions or technical rules on safety measures and thereby causes a great danger to human life or to property of substantial value, shall be punished by imprisonment of three months to five years.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of up to three years.

(4) Where the court imposes a suspended sentence for the offence provided for in paragraph 1 or 2 of the present article, it may impose the condition that the perpetrator install the safety equipment within a specified time limit.

(5) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of one to ten years, and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years.

(6) When the offence provided for in paragraph 3 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of up to five years, and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to eight years.

#### Article 294

##### **UNLAWFUL CONSTRUCTION WORK**

(1) A responsible person who, in designing, supervising or executing any building or construction work, acts against the law, generally accepted professional standards or the terms of a construction permit and thereby endangers the life or body of people or property of substantial value shall be punished by imprisonment of three months to five years.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of up to three years.

(3) When the offence provided for in paragraph 1 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of one to ten years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to twelve years.

(4) When the offence provided for in paragraph 2 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of up to five years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to eight years.

#### Article 295

##### **UNLAWFUL TRANSPORTATION OF EXPLOSIVES OR FLAMMABLE MATERIALS**

Whoever, in breach of the law on the circulation of explosives or easily flammable materials, delivers explosives or easily flammable materials to be transported by means of public transportation or transports such materials himself or herself using means of public transportation shall be punished by a fine or by imprisonment of up to one year.

#### Article 296

##### **FAILURE TO AVOID DANGER**

(1) Whoever fails to take measures to avoid fire, flood, explosion, traffic disasters or any other danger to human life or physical safety or property on a large scale by the timely notification of a competent authority or in some other way, even though he or she could have done so without endangering himself, herself or another person, shall be punished by a fine or by imprisonment of up to one year.



(2) Whoever prevents or obstructs in any other manner another person from taking measures to avoid fire, flood, explosion, traffic disasters or any other danger to human life or physical safety or property on a large scale shall be punished by imprisonment of three months to three years.

## **CHAPTER XXVI: CRIMINAL OFFENCES AGAINST SECURITY OF PUBLIC TRAFFIC**

### Article 297

#### **ENDANGERING PUBLIC TRAFFIC**

(1) Whoever violates the law on public traffic and endangers public traffic, human life or property on a large scale and thereby causes light bodily injury to a person or material damage exceeding 15,000 euro shall be punished by a fine or by imprisonment of up to five years.

(2) Whoever endangers railway, water, tram, trolleybus, bus or cable car traffic and in this way endangers human life, physical safety or property on a large scale shall be punished by imprisonment of up to five years.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to two years.

(4) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury of a person or substantial material damage, the perpetrator shall be punished by imprisonment of six months to five years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of at least one year of imprisonment.

(5) When the offence provided for in paragraph 3 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of six months to five years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to eight years.

### Article 298

#### **ENDANGERING PUBLIC TRAFFIC WHILE INTOXICATED**

(1) Whoever drives a motor vehicle while intoxicated with alcohol or other intoxicating substances and, as a result, is evidently unable to drive safely and thereby endangers public traffic, human life, physical safety or property on a large-scale shall be punished by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of up to one year.

(3) When the offence provided for in paragraph 1 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by

imprisonment of six months to five years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of at least one year.

(4) When the offence provided for in paragraph 2 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of six months to five years and when such offence results in the death of one or more persons, he or she shall be punished by imprisonment of one to eight years.

#### Article 299

##### **ENDANGERING PUBLIC TRAFFIC BY DANGEROUS ACTS OR MEANS**

(1) Whoever destroys, removes or seriously damages installations, equipment, signs or signals designed for traffic safety, or gives erroneous signs or signals, places obstacles on public roads or in any other manner endangers traffic and thereby endangers human life or physical safety or property on a large-scale shall be punished by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of up to one year.

(3) When the offence provided for in paragraph 1 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of six months to five years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of at least one year.

(4) When the offence provided for in paragraph 2 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of six months to five years and when such offence results in the death of one or more persons, the perpetrator shall be punished by imprisonment of one to eight years.

#### Article 300

##### **IRRESPONSIBLE SUPERVISION OF PUBLIC TRAFFIC**

(1) A responsible person entrusted with supervising the conditions and maintenance of roads and objects in these roads, means of transport, the fulfilment of determined working conditions for drivers or a responsible person entrusted with the management of driving who by the irresponsible exercise of his or her duty endangers human life or physical safety or property on a large-scale shall be punished by imprisonment of up to five years.

(2) Whoever is responsible for giving orders for driving or allows driving despite knowing that the driver is not able to drive the vehicle in a safe manner due to fatigue, illness, intoxication by alcohol or for other reasons or that the vehicle is not in a proper condition and thereby endangers human life or physical safety or property on a large-scale shall be punished as provided for in paragraph 1 of the present article.

(3) When the offence provided for in paragraph 1 or 2 of the present article is committed by negligence, the perpetrator shall be punished by imprisonment of up to three years.

(4) When the offence provided for in paragraph 1 or 2 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by

imprisonment of six months to five years and when the offence has caused the death of one or more persons, the perpetrator shall be punished by imprisonment of at least one year.

(5) When the offence provided for in paragraph 3 of the present article results in serious bodily injury or substantial material damage, the perpetrator shall be punished by imprisonment of six months to five years and when the offence results in the death of one or more persons, he shall be punished by imprisonment of one to eight years.

#### Article 301

##### **REFRAINING FROM PROVIDING HELP TO PERSONS INJURED IN TRAFFIC ACCIDENTS**

(1) The driver of a vehicle or other means of transportation, who fails to provide help to a person who has been injured by that means of transportation or whose injury has been caused by the driver shall be punished by imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article results in the serious bodily injury or death of the person, the perpetrator shall be punished by imprisonment of three months to five years.

#### Article 302

##### **MISUSING TELECOMMUNICATION SIGNALS**

Whoever maliciously or needlessly transmits an internationally used signal of distress or a danger signal, or, by the use of a telecommunication signal, causes deception that there is no danger, or misuses an internationally accepted telecommunication signal shall be punished by imprisonment of three months to three years.

### **CHAPTER XXVII: CRIMINAL OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE**

#### Article 303

##### **FAILURE TO REPORT PREPARATION OF CRIMINAL OFFENCES**

(1) Whoever, having knowledge about the preparation of the commission of a criminal offence punishable by imprisonment of least five years, fails to report the fact at the time when the commission of the offence may still be averted and the offence is committed or attempted shall be punished by a fine or by imprisonment of up to one year.

(2) Whoever fails to report the preparation of the commission of a criminal offence punishable by long-term imprisonment shall be punished by imprisonment of three months to three years.

(3) A person is not criminally liable under paragraph 1 of the present article if he or she is related to the perpetrator of the criminal offence as the spouse, extra-marital partner, first-line blood relative, brother or sister, adoptive parent or adopted child or their spouse or cohabiting partner.

## Article 304

**FAILURE TO REPORT CRIMINAL OFFENCES OR PERPETRATORS**

- (1) Whoever, having knowledge of the identity of the perpetrator of a criminal offence punishable by long-term imprisonment or of the commission of such a criminal offence, fails to report such fact even though the discovery of the perpetrator or of the criminal offence depends upon such a report shall be punished by imprisonment of up to three years.
- (2) An official person or a responsible person who fails to report a criminal offence he or she has discovered in the exercise of his or her duties shall be punished as provided for in paragraph 1 of the present article, if such offence is punishable by imprisonment of at least three years and is prosecuted *ex officio*.
- (3) A person is not criminally liable under the present article if he or she is related to the perpetrator of the criminal offence as the spouse, extra-marital partner, first-line blood relative, brother or sister, adoptive parent or adopted child or their spouse or cohabiting partner.

## Article 305

**PROVIDING ASSISTANCE TO PERPETRATORS AFTER THE COMMISSION OF CRIMINAL OFFENCES**

- (1) Whoever harbors the perpetrator of a criminal offence prosecuted *ex officio* or aids him or her to elude discovery by concealing instruments, evidence or in any other way or whoever harbors a convicted person or takes steps towards frustrating the execution of a punishment or an order for mandatory treatment shall be punished by imprisonment of up to one year.
- (2) Whoever assists the perpetrator of a criminal offence punishable by imprisonment of more than five years shall be punished by imprisonment of six months to five years.
- (3) Whoever assists the perpetrator of a criminal offence punishable by long-term imprisonment shall be punished by imprisonment of one to ten years.
- (4) The punishment provided for in paragraph 1 of the present article may not be more severe, neither in manner nor in degree, than the punishment prescribed for the criminal offence committed by the person who has been given assistance.
- (5) A person is not criminally liable under the present article if he or she is related to the perpetrator of the criminal offence as the spouse, extra-marital partner, first-line blood relative, brother or sister, adoptive parent or adopted child or their spouse or cohabiting partner.

## Article 306

**FALSE REPORTS**

- (1) Whoever reports that a particular person has committed a criminal offence prosecuted *ex officio*, while knowing that such person is not the perpetrator, shall be punished by imprisonment of three months to three years.

(2) Whoever places false evidence of a criminal offence or in any other manner causes the initiation of criminal proceedings for an offence prosecuted *ex officio* against a person whom he or she knows did not commit the offence shall be punished as provided for in paragraph 1 of the present article.

(3) Whoever reports that he or she has committed a criminal offence prosecuted *ex officio*, even though he or she has not committed such offence, shall be punished by a fine or by imprisonment of up to three months.

(4) Whoever reports that a criminal offence which is prosecuted *ex officio* has been committed, even though he or she knows that the offence has not been committed, shall be punished as provided for in paragraph 3 of the present article.

#### Article 307

##### **FALSE STATEMENTS**

(1) A witness, expert witness, translator or interpreter who gives a false statement in court proceedings, minor offence proceedings, administrative proceedings before a notary public or disciplinary proceedings shall be punished by a fine or by imprisonment of up to one year.

(2) When the false statement is a basis for the final decision in the proceedings, the perpetrator shall be punished by imprisonment of three months to three years.

(3) When the criminal offence provided for in paragraph 1 of the present article results in serious consequences for the accused person, the perpetrator shall be punished by imprisonment of one to five years.

(4) When the perpetrator of the criminal offence provided for in paragraph 1 of the present article voluntarily withdraws his or her statement before a final decision has been issued, the court may waive the punishment.

#### Article 308

##### **FALSE STATEMENTS OF CO-OPERATIVE WITNESSES**

(1) A co-operative witness who gives testimony that is false in any relevant part or who purposely omits to state the complete truth to the public prosecutor, the police, the pre-trial judge or the court in a hearing or main trial shall be punished by imprisonment of three months to five years.

(2) Whoever commits the offence referred to in paragraph 1 of the present article and subsequently withdraws the testimony and testifies truthfully before the end of his or her testimony shall be punished by a fine of up to 500 euro or by imprisonment of up to three months, or the court may waive the punishment if there are mitigating circumstances.

## Article 309

**OBSTRUCTION OF EVIDENCE**

(1) Whoever, by use of force, by threat to use force or any other means of compulsion or by a promise of a gift or any other form of benefit induces a witness or an expert to give a false statement in court proceedings, minor offence proceedings, administrative proceedings or in proceedings before a notary public or disciplinary proceedings shall be punished by imprisonment of six months to five years.

(2) Whoever, with the intent to prevent or hamper the collection of evidence in court proceedings, minor offences proceedings, administrative proceedings, proceedings before a notary public or disciplinary proceedings, conceals, destroys, damages or renders unserviceable, in whole or in part, the property of another person or documents that may be used as evidence, shall be punished by a fine or by imprisonment of up to three years.

(3) Whoever, with the intent to prevent or hamper the collection of evidence in court proceedings or administrative proceedings, removes, shifts or changes the place of any boundary marker, land marker or any other mark designed to mark ownership or real estate or right to use water, or, with the same intent, places such markers in a misleading manner shall be punished as provided for in paragraph 1 of the present article.

## Article 310

**INTIMIDATION DURING CRIMINAL PROCEEDINGS FOR ORGANIZED CRIME**

Whoever uses force, a threat to use force or any other means of compulsion, a promise of a gift or any other form of benefit to induce another person to refrain from making a statement or to make a false statement or to otherwise fail to state true information to the police, a public prosecutor or a judge, when such information relates to organized crime, as defined in Article 274, shall be punished by a fine of up to 125,000 euro and by imprisonment of four to seven years.

## Article 311

**VIOLATING SECRECY OF PROCEEDINGS**

Whoever, without authorisation, reveals information disclosed in court proceedings, minor offence proceedings, administrative proceedings or parliamentary investigation proceedings of the Assembly of Kosovo which must not be revealed according to law or has been declared to be secret by a decision of the court or a competent authority shall be punished by a fine or by imprisonment of up to one year.

## Article 312

**UPRISING OF THE PERSONS DEPRIVED OF LIBERTY**

(1) Whoever, from the institution where he or she is detained on the basis of a lawful decision ordering the deprivation of liberty, organizes an uprising of persons deprived of liberty with the intent to release themselves by force or to attack jointly the official persons in such institution or to compel, through the use of force or serious threat of use of force, such

official persons to do or abstain from doing an act in breach of their duty shall be punished by imprisonment of six months to three years.

(2) A participant in the uprising provided for in paragraph 1 of the present article shall be punished by imprisonment of three months to one year.

(3) When the perpetrator of the offence provided for in paragraph 1 or 2 of the present article withdraws voluntarily from the uprising before exercising force or serious threat, the court may waive his punishment.

(4) When the offence provided for in paragraph 1 or 2 of the present article is committed by the use of force, the perpetrator shall be punished by imprisonment of six months to five years.

#### Article 313

##### **ESCAPE OF PERSONS DEPRIVED OF LIBERTY**

Whoever, by use of force or by threat to immediately attack the life or body of any person, escapes from a penal institution or a detention facility shall be punished by imprisonment of three months to five years.

#### Article 314

##### **FACILITATING THE ESCAPE OF PERSONS DEPRIVED OF LIBERTY**

(1) Whoever, by use of force, threat to use force, deception or in any other manner, facilitates the escape of a person who according to the law has been deprived of liberty shall be punished by imprisonment of three months to five years.

(2) When the offence provided for in paragraph 1 of the present article is committed jointly by more than one person, they shall be punished by imprisonment of one to eight years.

#### Article 315

##### **UNLAWFUL FACILITATION OF THE EXERCISE OF A PROFESSION, ACTIVITY OR DUTY**

Whoever enables another person to exercise a profession, activity or duty, even though he or she knows that a final judgment imposing an accessory punishment has prohibited the person from exercising such profession, activity or duty shall be punished by imprisonment of three months to three years.

**CHAPTER XXVIII: CRIMINAL OFFENCES AGAINST PUBLIC ORDER AND LEGAL TRANSACTIONS**

## Article 316

**OBSTRUCTING OFFICIAL PERSONS IN PERFORMING OFFICIAL DUTIES**

- (1) Whoever, by force or threat of immediate use of force, obstructs an official person in performing official duties falling within the scope of his or her authorisations or, using the same means, compels him or her to perform official duties shall be punished by imprisonment of three months to three years.
- (2) When the offence provided for in paragraph 1 of the present article involves insulting or abusing an official person or a threat to use a weapon or results in light bodily injury, the perpetrator shall be punished by imprisonment of six months to three years.
- (3) When the offence provided for in paragraph 1 or 2 of the present article is committed against an official person performing his or her duties of maintaining public security, the security of Kosovo or public order or apprehending a perpetrator of a criminal offence or guarding a person deprived of liberty, the perpetrator shall be punished by imprisonment of three months to five years.
- (4) An attempt of the offence provided for in paragraph 1 or 2 of the present article shall be punishable.
- (5) When the perpetrator of the offence provided for in paragraphs 1 to 3 of the present article is provoked by the unlawful or the brutal action of the official person, the court may waive the punishment.

## Article 317

**ATTACKING OFFICIAL PERSONS PERFORMING OFFICIAL DUTIES**

- (1) Whoever attacks or seriously threatens to attack an official person or a person who assists in performing official duties related to public security or the security of Kosovo or maintaining public order shall be punished by imprisonment of three months to three years.
- (2) When the offence provided for in paragraph 1 of the present article results in light bodily injury to the official person or his or her assistant or involves a threat to use a weapon, the perpetrator shall be punished by imprisonment of six months to five years.
- (3) When the offence provided for in paragraph 1 of the present article, results in serious bodily injury to the official person or his or her assistant, the perpetrator shall be punished by imprisonment of one to ten years.
- (4) When the perpetrator of the offence provided for in paragraph 1, 2 or 3 of the present article is provoked by the unlawful or brutal action of the official person or his or her assistant, the court may waive the punishment.



## Article 318

**PARTICIPATION IN A GROUP OBSTRUCTING OFFICIAL PERSONS IN PERFORMING OFFICIAL DUTIES**

- (1) Whoever participates in a group of persons which by common action obstructs or attempts to obstruct an official person in performing official duties or in a similar way forces him or her to execute official duties shall be punished for participation by a fine or by imprisonment of up to three years.
- (2) The leader of the group which commits the offence provided for in paragraph 1 of the present article shall be punished by imprisonment of one to five years.

## Article 319

**CALL TO RESISTANCE**

Whoever calls upon others to prevent, by use of force or serious threat, the execution of lawful decisions or measures issued by a competent authority or an official while carrying out an official activity shall be punished by imprisonment for a term not exceeding three years.

## Article 320

**PARTICIPATING IN A CROWD COMMITTING A CRIMINAL OFFENCE**

- (1) Whoever participates in an assembled crowd which by collective action deprives another person of his or her life, inflicts a grievous bodily harm on another person, causes a general danger, damages a property on a large scale or commits other offences of grave violence, or attempts to commit such offences, shall be punished by imprisonment of three months to five years.
- (2) The organizer of the crowd referred to in paragraph 1 of the present Article shall be punished by imprisonment of one to ten years.

## Article 321

**FAILURE TO PARTICIPATE IN AVERTING A PUBLIC DANGER**

Whoever, contrary to orders by a competent authority, refuses without justified reason to participate in averting a danger to human life or property on a large-scale shall be punished by a fine or by imprisonment of up to three months.

## Article 322

**REMOVING OR DAMAGING OF OFFICIAL STAMPS OR MARKS**

- (1) Whoever removes or damages an official stamp or mark affixed by an authorised official for the purpose of securing an object or premises, or whoever, without removal of or damage to the stamp or mark, opens the secured object or enters such premises shall be punished by imprisonment of three months to three years.
- (2) An attempt of the offence provided for in paragraph 1 shall be punishable.

## Article 323

**TAKING OR DESTROYING OFFICIAL STAMPS OR OFFICIAL DOCUMENTS**

Whoever unlawfully takes, hides, destroys, damages or in any other way renders unusable an official stamp, book, file or document belonging to or in the possession of a public entity or another legal person which exercises public authorisations shall be punished by a fine or by imprisonment of up to three years.

## Article 324

**DESTROYING OR CONCEALING ARCHIVE MATERIALS**

Whoever destroys, hides or renders unusable archive materials or removes such materials from Kosovo without the prior permission of a competent authority shall be punished by a fine or by imprisonment of up to three years.

## Article 325

**FALSE REPRESENTATION**

(1) Whoever, with the intent to obtain a material benefit for himself, herself or another person or to cause damage to another person, falsely claims to be an official or military person or, without authorisation, wears the insignia of an official or military person shall be punished by a fine or by imprisonment of up to one year.

(2) Whoever undertakes any action which only a designated official or military person is authorised to undertake shall be punished as provided for in paragraph 1 of the present article.

## Article 326

**ARBITRARY EXERCISE OF RIGHTS**

(1) Whoever arbitrarily exercises a right that he or she believes belongs to him or her instead of referring to a competent authority shall be punished by a fine or by imprisonment of up to six months.

(2) Whoever, by use of force or by threat to use force, exercises a right that he or she believes belongs to him or her, instead of referring to a competent authority, shall be punished by imprisonment of up to two years.

(3) When the offence provided for in paragraph 2 of the present article is committed by a perpetrator acting as a member of a group, the perpetrator shall be punished by imprisonment of six months to three years.

(4) Criminal proceedings for the offence provided for in paragraph 1 of the present article shall be initiated based on a private prosecution and for the offence provided for in paragraph 2 of the present article, criminal proceedings shall be initiated following a motion.

## Article 327

**UNAUTHORISED SUPPLY, TRANSPORT, PRODUCTION, EXCHANGE OR SALE OF WEAPONS**

- (1) Whoever, without authorisation, supplies, transports, produces, exchanges or sells weapons shall be punished by a fine of up to 7,500 euro or by imprisonment of one to eight years.
- (2) When the offence provided for in paragraph 1 or 2 of the present article involves a large amount of weapons, the perpetrator shall be punished by imprisonment of one to ten years.
- (3) The weapons shall be confiscated.

## Article 328

**UNAUTHORISED OWNERSHIP, CONTROL, POSSESSION OR USE OF WEAPONS**

- (1) Whoever uses or brandishes a weapon in a threatening, intimidating or otherwise unauthorised manner or directs another person to do the same shall be punished by a fine of up to 10,000 euro or by imprisonment of one to ten years.
- (2) Whoever owns, controls, possesses or uses a weapon without a valid Weapon Authorisation Card for that weapon shall be punished by a fine of up to 7,500 euro or by imprisonment of one to eight years.
- (3) When the offence provided for in paragraph 2 of the present Article involves a large amount of weapons, the perpetrator shall be punished by imprisonment of one to ten years.
- (4) Whoever fails to notify UNMIK Police of any change in the ownership, possession or control of the authorised weapon shall be punished by a fine of up to 7,500 euro or by imprisonment of one to eight years.
- (5) The unauthorised weapons or the authorised weapons used or held in any way not in compliance with the terms and conditions of the Weapon Authorisation Card shall be confiscated.

## Article 329

**NON-COMPLIANCE WITH WEAPONS AUTHORISATION REQUIREMENTS**

- (1) Whoever provides any false information, either verbally or in writing, at any stage of the application procedure for a Weapon Authorisation Card or manufactures, possesses, sells or purchases a fraudulent Weapon Authorisation Card shall be punished by a fine of up to 5.000 EUR or by imprisonment of up to three years.
- (2) A holder of a Weapon Authorisation Card who fails to provide to the police or KFOR immediately upon demand the authorised weapon or, if it is not in his or her possession, fails to inform the police of its location shall be punished by a fine of up to 2,500 euro or by imprisonment of up to three months.

(3) A holder of a Weapon Authorisation Card who fails to notify UNMIK Police of any change in residence within fifteen days of such change shall be punished by a fine of up to 2,500 euro or by imprisonment of up to three months.

#### Article 330

##### **MANUFACTURING AND PROCURING WEAPONS AND INSTRUMENTS DESIGNED TO COMMIT CRIMINAL OFFENCES**

(1) Whoever manufactures, procures or makes it possible for another person to obtain weapons or poisons, or equipment necessary for their manufacture, which he or she knows is destined for the commission of a criminal offence shall be punished by imprisonment of three months to five years.

(2) Whoever manufactures, procures or makes it possible for another person to obtain a false key, a picklock or some other instrument to be used in burglary, which he or she knows is destined for the commission of a criminal offence shall be punished by imprisonment of up to one year.

#### Article 331

##### **MISUSING DISTRESS OR DANGER SIGNALS**

Whoever misuses a distress or danger sign or makes a groundless call for help with the intent to make official persons or fire fighters take action shall be punished by a fine or by imprisonment of up to six months.

#### Article 332

##### **FALSIFYING DOCUMENTS**

(1) Whoever draws up a false document, alters a genuine document with the intent to use such document as genuine or knowingly uses a false or altered document as genuine shall be punished by a fine or by imprisonment of up to one year.

(2) An attempt of the offence provided for in paragraph 1 of the present article shall be punishable.

(3) When the offence provided for in paragraph 1 of the present article is committed in relation to a public document, will, bill of exchange, public or official registry or some other registry kept in accordance with the law the perpetrator shall be punished by a fine or by imprisonment of up to three years.

#### Article 333

##### **SPECIAL CASES OF FALSIFYING DOCUMENTS**

A person shall be deemed to have committed the offence of falsifying documents and shall be punished as provided for in paragraph 3 of Article 332, if such person:

- 1) Without authorisation completes a letter, blank form, or any other item which has already been signed by another person and fills in a statement that creates a legal relationship;
- 2) Deceives another person with regard to the content of any document and such person signs the document thinking that he or she is signing some other document or a document with some other content;
- 3) Issues a document on behalf of another person without his or her authorisation or on behalf of a person who does not exist;
- 4) Issues a document and claims by signing the document that he or she has a position, title or rank, although he or she does not, and such act has a substantial influence on the value of the document; or
- 5) Issues a document using a genuine stamp or sign without prior authorisation.

#### Article 334

##### **LEGALISATION OF FALSE CONTENT**

- (1) Whoever misleads a competent authority into certifying any untrue matter designed to serve as evidence of a legal matter in a public document, register or book shall be punished by imprisonment of three months to five years.
- (2) Whoever uses such a document, register or book even though he or she knows it to be false shall be punished as provided for in paragraph 1 of the present article.

#### Article 335

##### **GIVING OR USING FALSE CERTIFICATES OF PHYSICIANS OR VETERINARIANS**

- (1) A physician who issues a false medical certificate or a veterinarian who issues a false veterinary certificate even though he or she knows it to be false shall be punished by a fine or by imprisonment of up to six months.
- (2) Whoever uses a false medical certificate or veterinary certificate even though he or she knows it to be false shall be punished as provided for in paragraph 1 of the present article.

#### Article 336

##### **UNLAWFUL PROVISION OF LEGAL ASSISTANCE**

- (1) Whoever, without authorisation and without the professional qualifications required by law, provides legal assistance for remuneration shall be punished by a fine or by imprisonment of up to one year.
- (2) Whoever commits the offence provided for in paragraph 1 of the present article by pretending to have the professional qualifications shall be punished by a fine or by imprisonment of up to two years.

## Article 337

**DISRUPTING RELIGIOUS CEREMONIES**

- (1) Whoever, intentionally and without a legal reason, disrupts or prevents a religious ceremony from taking place shall be punished by a fine or by imprisonment of up to one year.
- (2) Whoever commits the offence provided for in paragraph 1 of the present article by using force or serious threat to use force shall be punished by imprisonment of three months to three years.

## Article 338

**DAMAGING GRAVES OR CORPSES**

- (1) Whoever without authorisation digs over, demolishes, damages or violates a grave or some other place of burial shall be punished by a fine or by imprisonment of up to one year.
- (2) Whoever, without authorisation, excavates, removes, damages, destroys or hides a corpse or part of a corpse or the ashes of the deceased shall be punished by a fine or by imprisonment of up to three years.

**CHAPTER XXIX: CRIMINAL OFFENCES AGAINST OFFICIAL DUTY**

## Article 339

**ABUSING OFFICIAL POSITION OR AUTHORITY**

- (1) An official person who, with the intent to obtain an unlawful material benefit for himself, herself or another person or a business organization or to cause any damage to another person or business organization, abuses his or her official position, exceeds the limits of his or her authorisations or does not execute his or her official duties shall be punished by imprisonment of up to one year.
- (2) When the offence provided for in paragraph 1 of the present article results in a damage exceeding 2,500 euro or a grave violation of the rights of another person, the perpetrator shall be punished by imprisonment of up to three years.
- (3) When the offence provided for in paragraph 1 of the present article results in a material benefit exceeding 5,000 euro, the perpetrator shall be punished by imprisonment of one to eight years.

## Article 340

**MISAPPROPRIATION IN OFFICE**

- (1) An official person who, with the intent to obtain an unlawful material benefit for himself, herself or another person, appropriates money, securities or other movable property entrusted to him or her because of his or her duty or position within a public entity or a legal person shall be punished by imprisonment of six months to five years.

(2) When the offence provided for in paragraph 1 of the present article results in a material benefit exceeding 2,500 euro, the perpetrator shall be punished by imprisonment of one to five years.

(3) When the offence provided for in paragraph 1 of the present article results in a material benefit exceeding 5,000 euro, the perpetrator shall be punished by imprisonment of one to ten years.

#### Article 341

##### **FRAUD IN OFFICE**

(1) An official person who, with the intent to obtain unlawful material benefit for himself, herself or another person, by presenting a false statement of an account or in any other way deceives an authorised person into making an unlawful disbursement shall be punished by a fine or by imprisonment of up to five years.

(2) When the offence provided for in paragraph 1 of the present article results in a material benefit exceeding 2,500 euro, the perpetrator shall be punished by imprisonment of one to five years.

(3) When the offence provided for in paragraph 1 of the present article results in a material benefit exceeding 5,000 euro, the perpetrator shall be punished by imprisonment of one to ten years.

#### Article 342

##### **UNAUTHORISED USE OF PROPERTY**

Whoever, without authorisation, uses money, securities or other movable property which have been entrusted to him or her in his or her duty or generally in his or her workplace or which have been made accessible to him or her because of his or her service or work or whoever confers such property on another person for unauthorised use shall be punished by a fine or by imprisonment of up to three years.

#### Article 343

##### **ACCEPTING BRIBES**

(1) An official person who solicits or accepts a gift or some other benefit for himself, herself or another person or who accepts a promise of a gift or some other benefit to perform within the scope of his or her authority an official or other act which he or she should not perform or to fail to perform an official or other act which he or she should or could have performed shall be punished by imprisonment of six months to five years.

(2) An official person who solicits or accepts a gift or some other benefit for himself or herself or another person or who accepts a promise of a gift or some other benefit to perform within the scope of his or her authority an official or other act which he or she should have carried out or to fail to perform an official act which he or she may not perform shall be punished by imprisonment of three months to three years.

- (3) An official person who, following the performance or omission of an act provided for in paragraph 1 or 2 of the present article, solicits or accepts a gift or some other benefit for himself, herself or another person in relation to such performance or omission shall be punished by a fine or by imprisonment of up to one year.
- (4) The gift or other benefit received shall be confiscated.

#### Article 344

##### **GIVING BRIBES**

- (1) Whoever confers or promises to confer a gift or other benefit on an official person, so that such person perform within the scope of his or her official authority an official or other act which he or she should not have performed or fail to perform an official or other act which he or she should have performed or whoever serves as an intermediary in bribing an official person shall be punished by imprisonment of three months to three years.
- (2) Whoever confers or promises to confer a gift or other benefit on an official person so that such person perform within the scope of his or her official authority an official or other act which he or she should perform or fail to perform an official or other act which he or she may not perform or whoever serves as intermediary in bribing an official person shall be punished by a fine or by imprisonment of up to one year.
- (3) When the perpetrator of the offence provided for in paragraph 1 or 2 of the present article gave the bribe on the request of an official person and reported the offence before it was discovered or before knowing that the offence was discovered, the court may waive the punishment.
- (4) The gift or other benefit shall be confiscated or, in the case of paragraph 3 of the present article, it shall be restored to the person who gave it.

#### Article 345

##### **TRADING IN INFLUENCE**

- (1) Whoever requests, receives or accepts an offer or promise of any undue advantage for himself, herself or another person in consideration of the exertion of an improper influence by the perpetrator over the decision-making of an official person, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result, shall be punished by a fine or by imprisonment of up to two years.
- (2) Whoever promises, offers or gives, directly or indirectly, any undue advantage to another person who asserts or confirms that he or she is able to exert an improper influence over the decision-making of an official person, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result, shall be punished by a fine or by imprisonment of up to one year.



## Article 346

**ISSUING UNLAWFUL JUDICIAL DECISIONS**

A judge or a lay judge or a minor offence court judge who, with the intent to obtain an unlawful material benefit for himself, herself or another person or cause damage to another person, issues an unlawful decision shall be punished by imprisonment of six months to five years.

## Article 347

**DISCLOSING OFFICIAL SECRETS**

(1) An official person who, without authorisation, communicates, sends, or in some other way makes available to another person information which constitutes an official secret or obtains such information with the intent to convey it to an unauthorised person shall be punished by imprisonment of up to three years.

(2) When the offence provided for in paragraph 1 of the present article is committed for personal gain or for the purpose of publishing or using the information outside of Kosovo, the perpetrator shall be punished by imprisonment of one to five years.

(3) When the offence provided for in paragraph 1 of the present article is committed by negligence, the perpetrator shall be punished by a fine or by imprisonment of up to one year.

(4) The provisions in paragraphs 1 through 3 of the present article shall apply to a person who disclosed an official secret after his or her official status has ceased.

(5) For the purposes of the present article, the term "official secret" means information or documents proclaimed by law, other provisions, or by a decision by the competent authority issued on the basis of law to be an official secret and whose disclosure has caused or might cause detrimental consequences.

## Article 348

**FALSIFYING OFFICIAL DOCUMENTS**

(1) An official person or a responsible person who, in an official or business document, official register or file, enters false information or fails to enter essential information or with his or her signature or official stamp certifies an official or business document, official register or file which contains false data or enables the compilation of such document, register or file with false contents shall be punished by imprisonment of three months to three years.

(2) An official person or a responsible person who uses a false official or business document, official register or file as if it were true in his or her duty or business activity or who destroys, hides, damages or in any other way renders unusable the official or business document, official register or file shall be punished as provided for in paragraph 1 of the present article.

**Article 349****UNLAWFUL COLLECTION AND DISBURSEMENT**

An official or a responsible person who collects from another something that such person is not bound to pay or collects more than such person is bound to pay or who, in a payment or delivery, pays or delivers less than what is required shall be punished by a fine or by imprisonment of up to one year.

**Article 350****UNLAWFUL RELEASE OF PERSONS DEPRIVED OF LIBERTY**

An official person who unlawfully releases another person deprived of liberty and entrusted to him or her, aids his or her escape or enables an unlawful connection or correspondence whose purpose is the preparation of escape shall be punished by imprisonment of three months to five years.

**Article 351****UNLAWFUL APPROPRIATION OF PROPERTY DURING A SEARCH OR EXECUTION OF A COURT DECISION**

An official person who, during a search of premises or a person or during the execution of a court decision, takes movable property with the intent of obtaining an unlawful material benefit for himself, herself or another person shall be punished by imprisonment of six months to five years.

**CHAPTER XXX: TRANSITIONAL AND FINAL PROVISIONS****Article 352**

Criminal offences related to socially-owned property shall be set forth separately by law.

**Article 353**

All criminal sanctions for acts still criminalized by the present Code and imposed by final judgments before the entry into force of the present Code shall continue with the same duration or to the same extent.

**Article 354**

(1) Provisions in UNMIK Regulations and Administrative Directions covering matters addressed in the present Code shall cease to have effect upon the entry into force of the present Code unless otherwise expressly determined in the present Code or in an UNMIK Regulation.

(2) Provisions in the applicable Criminal Codes shall cease to have effect upon the entry into force of the present Code.

**Article 355**

The Special Representative of the Secretary-General may issue Administrative Directions for the implementation of the present Code.

**Article 356**

The English, Albanian and Serbian language versions of the present Code are equally authentic. In case of conflict, the English language version shall prevail.

**Article 357**

The present Code shall enter into force on 6 April 2004.