

**PART ONE
GENERAL PART**

**Chapter I
BASIC PROVISIONS**

Scope of Law

Article 1

- (1) Penal sanctions shall be executed in accordance with the present Law.
- (2) For the purposes of the present Law, penal sanctions are principal punishments, alternative punishments, accessory punishments and judicial admonition.
- (3) Measures of mandatory rehabilitation treatment shall be executed in accordance with the present Law.

Article 2

The provisions of the present Law shall apply to the execution of penal sanctions imposed by foreign courts in accordance with the Provisional Criminal Procedure Code and international agreements.

Article 3

The execution of penal sanctions shall aim at the reintegration of the convicted person into society and prepare him or her to conduct his or her life in a socially responsible way, without committing criminal offences. The execution of penal sanctions shall also serve the purpose of protecting society by preventing the commission of further criminal offences.

Guiding Principles

Article 4

- (1) Penal sanctions shall be executed in such a way as to assure humanity of treatment and respect for the dignity of each individual. The convicted person shall not be subject to torture or to inhuman or degrading treatment or punishment.
- (2) Penal sanctions shall be executed with absolute impartiality. There shall be no discrimination on any ground such as national or social origin, race, colour, gender, language, economic and social status, political or other opinion and religious beliefs, affiliation to an ethnic religious or linguistic community in Kosovo, property, birth or other status.
- (3) During the execution of a penal sanction, the rights of the convicted person shall always be respected. These rights may be restricted only to the extent necessary for the execution of the penal sanction, in compliance with the applicable law and international

human rights standards.

(4) The enforcement of penal sanctions and should, as far as possible, stimulate the participation of the convicted person in his or her own social reintegration, especially through the implementation of an individual plan and the cooperation of society in achieving such aims.

(5) The aim of reintegrating the convicted person into the community shall also be pursued by urging and organizing the participation of public and private institutions or bodies, as well as of individuals, in the reintegration process.

Commencement of execution of penal sanctions

Article 5

(1) The execution of a penal sanction shall commence when the decision by which the penal sanction is imposed becomes final and there is no legal impediment to the execution of the penal sanction.

(2) The execution of a penal sanction may commence before the decision by which the penal sanction is imposed becomes final only exceptionally in the cases when it is expressly provided by law.

Stay and suspension of penal sanction

Article 6

The execution of a penal sanction may be stayed or suspended under conditions provided by law.

Administrative fees for submissions

Article 7

Administrative fees shall not be paid in regard to submissions, official actions and decisions in connection with the application of the provisions of the present Law, unless otherwise provided by law.

Maintenance of records

Article 8

In accordance with the provisions of the present Law, appropriate records shall be maintained on persons against whom penal sanctions and detention on remand are executed.

Resources for execution of penal sanctions

Article 9

(1) Resources for the execution of penal sanctions shall be provided by the budget of

Kosovo.

(2) The convicted person shall not pay the costs of executing a penal sanction, unless otherwise provided by law.

**PART TWO
EXECUTION OF PRINCIPAL PUNISHMENTS**

**Chapter II
EXECUTION OF IMPRISONMENT, LONG-TERM IMPRISONMENT AND FINES**

I. Transporting and accommodating the convicted persons in a correctional facility

**Transporting the convicted person to a correctional facility
Article 10**

(1) Persons sentenced to imprisonment and long-term imprisonment shall be transported to correctional facilities for the execution of imprisonment and long-term imprisonment in accordance with a directive issued by the competent public entity in the field of judicial affairs.

(2) Exceptionally, on the request of the convicted person, the competent public entity in the field of judicial affairs may for justifiable reasons change the place of execution of the sentence.

**Placement of the convicted persons in the correctional facilities
Article 11**

(1) A person sentenced to imprisonment may be placed in a detention centre if the duration of the imprisonment after taking account of detention on remand or other deprivation of liberty in connection with the criminal offence does not exceed three months.

(2) A person sentenced to imprisonment shall be placed in a correctional facility if the duration of the imprisonment, after taking account of detention on remand or other deprivation of liberty in connection with the criminal offence, exceeds three months.

(3) A persons sentenced to long-term imprisonment shall be placed in a correctional facility.

II: Procedure for sending convicted persons to serve sentences of imprisonment and long-term imprisonment

Actions which precede sending convicted persons to correctional facilities

Article 12

(1) If a court that rendered the first-instance decision does not have jurisdiction to send the convicted person to serve a sentence of imprisonment or long-term imprisonment, it shall send the final decision together with personal data on the convicted person collected during the criminal proceedings to the competent court within three days of the day on which the decision becomes final.

(2) Within three days of receiving the decision, the competent court should initiate the process of sending the convicted person to serve the sentence of imprisonment or long-term imprisonment.

Jurisdiction to send convicted persons to serve sentences of imprisonment or long-term imprisonment

Article 13

(1) The municipal court in the place in which the convicted person has current or permanent residence at the time when the decision imposing the sentence becomes final shall have jurisdiction to send the convicted person to serve a sentence of imprisonment or long-term imprisonment.

(2) The same court shall maintain its jurisdiction if the current or permanent residence of the convicted person subsequently changes.

Article 14

When the current and the permanent residence of the convicted person are unknown, the municipal court that rendered the first instance decision shall have jurisdiction to send the convicted person to serve a sentence of imprisonment or long-term imprisonment and if this decision was rendered by a district court, the municipal court at the seat of the district court shall have jurisdiction.

Article 15

(1) The competent court shall order the convicted person in writing to report to the correctional facility to serve the sentence of imprisonment or long-term imprisonment on a specific day.

(2) The period of time between the receipt of the order and the day of reporting shall be no less than eight days and no more than fifteen days.

(3) The competent court shall inform the correctional facility of the date on which the

convicted person shall report and deliver the final decision along with personal information about the convicted person collected during the criminal proceedings.

Commencement of service of imprisonment or long-term imprisonment sentence

Article 16

- (1) The correctional facility shall inform the competent court whether the convicted person reported to serve the sentence.
- (2) Service of the sentence of imprisonment or long-term imprisonment shall be counted from the day on which the convicted person reported to the correctional facility.

Article 17

- (1) If a convicted person who has been properly summoned does not report to the correctional facility, the court shall order that he or she be brought forcibly. If the convicted person hides or is in flight, the court shall order the issuance of a wanted notice.
- (2) Service of the sentence of imprisonment or long-term imprisonment shall be counted from the day on which the convicted person is deprived of liberty.

Transportation expenses

Article 18

- (1) The correctional facility shall compensate the convicted person for public transportation expenses from the place of permanent or current residence of the convicted person to the correctional facility.
- (2) The convicted person shall pay the expenses of being brought forcibly to the correctional facility.

III. Stay of execution of sentences of imprisonment and long-term imprisonment

1. Stay of execution of sentence upon the request of convicted person

Reasons and duration of the stay of execution of a sentence

Article 19

- (1) The execution of a sentence of imprisonment or long-term imprisonment can be stayed upon the request of the convicted person:
 - 1) Until the end of an illness, if the convicted person is suffering from a serious acute illness;
 - 2) Until, at the latest, the end of the third year of life of the child, if the female

convicted person has completed the sixth month of pregnancy or has a child younger than one year of age;

3) Until, at the latest, three months from the day of the commencement of the stay of execution, if a spouse, a child, an adopted child, a parent or an adoptive parent of the convicted person has died or is suffering from a serious illness;

4) Until, at the latest, six months from the day of commencement of the stay of execution, if the wife of the convicted person has three months until the day of giving birth, or if less than six months have elapsed from the day on which she gave birth and there is no other member of the household who would help her;

5) Until, at the latest, six months from the day of commencement of the stay of execution, if the spouse or some other member of the shared household of the convicted person is summoned with the convicted person to serve a sentence of imprisonment or long-term imprisonment, or if any of them is already in prison;

6) Until, at the latest, three months from the day of commencement of the stay of execution, if the stay is required by the convicted person for agricultural or seasonal work which cannot be delayed or work caused by some accident and the family of the convicted person does not have the necessary manpower;

7) Until, at the latest, three months from the day of commencement of the stay of execution, if the convicted person is obliged to complete work which has already been started and considerable damage may result from the failure to complete it;

8) Until, at the latest, six months from the day of commencement of the stay of execution, if the convicted person requires a stay to complete schooling or to take an examination for which he or she has prepared.

(2) The day on which the ruling on the stay of execution is rendered shall be considered the day of commencement of the stay of execution.

Procedure for stay of execution of sentence

Article 20

(1) A convicted person shall submit a request for a stay of execution of a sentence within three days of receiving an order for serving the sentence.

(2) If a serious acute illness of the convicted person or the death of his or her spouse, child, an adopted child, parent or adoptive parent occurs after the expiry of the three day period, the request may be submitted up to the day on which the convicted person is required to report to serve the sentence.

(3) The request for a stay of execution shall cite the reasons for the stay, shall enclose evidence that supports the reasons and shall state the period of time for which the stay is requested.

Article 21

- (1) The request for a stay of execution of a sentence shall be submitted to the president of the competent municipal court.
- (2) If evidence is not enclosed with the request, the president of the municipal court shall order the convicted person to submit the evidence within eight days, and shall warn him or her that the failure to do so will result in the denial of the request.

Article 22

- (1) The president of the competent municipal court shall decide on the request for a stay of execution of a sentence within three days of receipt of the request. Before rendering the ruling, the court may carry out necessary investigations in order to confirm the facts stated in the request.
- (2) The president of the competent municipal court shall dismiss a request for a stay of execution of a sentence which is not submitted within the prescribed period of time, which is submitted by an unauthorized person, or for which the supporting evidence is not submitted within the prescribed period of time.

Article 23

- (1) A convicted person may file an appeal against a first instance ruling to the president of the competent district court within three days of receipt of the ruling.
- (2) The president of the district court shall decide on the appeal within three days of its receipt.

Article 24

- (1) The request for a stay of execution stays the execution of the sentence until the final ruling on the request.
- (2) The president of competent municipal court who, after the second submission of a request establishes that the right to request a stay has been abused, shall decide that an appeal shall not stay the execution of the decision.

Article 25

A convicted person for whom the execution of a sentence has been stayed due to serious acute illness must submit a report on his or her state of health by the medical institution where he or she is being treated once every three months or, on the request of the competent court, more frequently.

Revocation and termination of the stay of execution of a sentence

Article 26

- (1) The president of the competent municipal court shall revoke the stay of execution of a sentence if it is subsequently established that the reasons for granting the stay did not exist or have ceased to exist, or that the convicted person has used the period of the stay for a purpose other than that for which it was granted.
- (2) If the stay has been granted to a pregnant woman whose child is not born alive, the stay shall be terminated six months after the delivery, and if the child dies after the delivery the stay shall be terminated six months after the death of the child.
- (3) If a stay has been granted to a mother of a child younger than one year of age who dies, the stay shall be terminated six months after the death of the child.

Article 27

- (1) The convicted person has the right to appeal against a ruling on the revocation or termination of the stay of execution of sentence under the same conditions as against a ruling by which a request for a stay is decided upon.
- (2) The appeal stays the execution of the ruling.

2. Stay of execution in regard to extraordinary legal remedies

Article 28

- (1) The court that decides on a request for reopening criminal proceedings submitted in favour of a convicted person may stay the execution of a sentence of imprisonment or long-term imprisonment, even before the entry into force of the ruling allowing the reopening of criminal proceedings.
- (2) The court that decides on a request for the extraordinary mitigation of punishment may stay the execution of sentence, depending on the content of the request.

Article 29

- (1) A stay of execution of a sentence shall always be granted on the request of the competent public prosecutor until a decision on the use of a legal remedy is rendered.
- (2) A decision on the stay of execution of a sentence of imprisonment or long-term imprisonment ceases to have effect if the public prosecutor does not use a legal remedy within thirty days of receipt of the decision on the stay of execution.

IV. Admission to a Correctional Facility

Receiving a convicted person

Article 30

(1) When a convicted person is admitted to a correctional facility, his or her identity and the grounds and authority for his or her imprisonment or long-term imprisonment shall first be established and then he or she shall undergo a medical examination within 24 hours of arrival or on the first working day after arrival. The name of the convicted person, the grounds and authority for his or her imprisonment or long-term imprisonment and the date and time of his or her arrival at the correctional facility shall be recorded in a register.

(2) During admission to a correctional facility, the convicted person shall be informed in a language he or she understands and in writing of the rules on internal order of the correctional facility, the obligations to be fulfilled and the manner of exercising rights during the execution of the sentence, the disciplinary punishments that may be imposed on him or her and the benefits that may be acquired. An illiterate convicted person shall be given this information orally.

(3) The procedures under paragraphs 1 and 2 of the present Article shall not, as far as possible, be carried out in the presence of other convicted persons. The convicted person shall be photographed.

(4) The text of the present Law and the directive on the rules on internal order of the correctional facility shall be accessible to the convicted persons at all times during service of the sentence.

Article 31

(1) The correctional facility shall allow the convicted person to call family members immediately after admission. A foreign national shall be provided with a reasonable opportunity to contact a representative of the liaison office or diplomatic mission of his or her State of nationality in writing or by telephone.

(2) If the convicted person has minor children or persons for whom he has the exclusive responsibility to care, the correctional facility shall inform the Guardianship Authority about this.

Placement of convicted persons within a correctional facility

Article 32

(1) The placement of a convicted person in a particular correctional facility or in a particular unit of a correctional facility should take into account his or her age, sentence and previous sentences, if any, his or her physical and mental health, any special treatment requirements, the location of the current or permanent residence of his or her family and security, as well as reasons pertaining to education or work that might be relevant for his or her social re-integration.

- (2) The placement of a convicted person should also take into account the possibility of carrying out common rehabilitation programmes as well as the need to avoid negative influences.
- (3) Male and female convicted persons shall be accommodated separately. Pregnant women, childbearing women and mothers who are caring for their children shall be accommodated separately from other sentenced women
- (4) Minors shall not be accommodated in the correctional facility or part of the correctional facility as adults.
- (5) Convicted persons shall not be accommodated in the same part of the facility as persons detained on remand.
- (6) All efforts should be made to separate persons sentenced for the first time and persons who have previously served a prison sentence.
- (7) The competent public entity in the field of judicial affairs shall issue a directive on the accommodation of convicted persons of specific ages, health categories or security risk categories.

Separation from convicted persons

Article 33

- (1) Upon the request of a convicted person, the director of the correctional facility may permit the convicted person to be separated from other convicted persons in a special unit of the correctional facility if the director determines that the concerns underlying the convicted person's request are reasonable and there are no other alternatives for addressing his or her concerns.
- (2) The director of the correctional facility may order a convicted person to be separated from other convicted persons, without the request of the convicted person for such separation, only if such measure is necessary:
 - 1) To avert danger to the life or health of the convicted person or other persons;
 - 2) To avert a threat to the security of the correctional facility posed by the continued presence of the convicted person in the general prison population; or
 - 3) To ensure the integrity of an investigation of a disciplinary matter.
- (3) A decision under paragraphs 1 and 2 of the present article shall be made after an investigation of all relevant circumstances. Separation may not be ordered for a period exceeding thirty days. Such decision shall be reviewed as often as there is a reason to do so and, in any case, once every ten days.
- (4) Where separation has been ordered to prevent the convicted person from influencing another convicted person to seriously disturb order within the correctional facility or to prevent the commission of continued criminal activity in the correctional facility, the

convicted person may be placed in a special unit of the correctional facility if the separation is expected to be of a long duration.

(5) The director of the correctional facility may order a convicted person who behaves violently to be separated from other convicted persons, without the request of the convicted person for such separation, for as long as is necessary to restrain the violent behaviour of the convicted person.

(6) A convicted person separated from other convicted persons shall be accorded the same rights, privileges and conditions as those enjoyed by the general prison population except for those privileges that can only be enjoyed in association with other prisoners or cannot be reasonably provided owing to the limitations specific to the unit of the correctional facility where the separated convicted person is placed.

(7) A medical officer shall examine the convicted person at least once a day and as necessary.

(8) A decision to separate a convicted person from other convicted persons shall be terminated as soon as the grounds for ordering the separation cease to exist or where a medical officer determines continued separation will be harmful to the health of the convicted person.

Searches Article 34

(1) No search of a convicted person shall be conducted in a manner which undermines his or her dignity. The intrusiveness of a search of a convicted person shall be proportionate to its purpose as set forth in the present Article.

(2) If a correctional staff member has a reasonable suspicion that a convicted person is in possession of an item that he or she is not permitted to have in his or her possession pursuant to the rules on internal order (“an unauthorized item”), a search of the convicted person may be conducted manually or by technical means, while he or she is clothed. A manual search shall be conducted by a correctional staff member of the same gender as the convicted person.

(3) A correctional staff member may conduct a search by visual inspection of the convicted person’s naked body, without individualized suspicion, in accordance with the conditions set forth in paragraph 6:

1) In prescribed circumstances, set out in a directive, limited to situations in which the convicted person has been in a place where there was a likelihood of access to an unauthorized item that is capable of being hidden on or in the body; or

2) When the convicted person is entering or leaving the area for separated convicted persons.

(4) If a correctional staff member has a reasonable suspicion that a convicted person is in possession of an unauthorized item and has satisfied the director of the correctional

facility that a search by visual inspection of the convicted person's naked body is necessary to find the unauthorized item, such search may be conducted in accordance with the conditions set forth in a paragraph 6:

- (5) If a correctional staff member has a reasonable suspicion that a convicted person is in possession of an unauthorized item and that a search by visual inspection of the convicted person's naked body is necessary to find the unauthorized item, he or she may conduct such search in accordance with the conditions set forth in paragraph 6, without the prior approval of the director of the correctional facility, if the delay caused by seeking such approval would result in danger to human life or safety.
- (6) A search by visual inspection of the convicted person's naked body:
- 1) Shall be conducted by two correctional staff of the same gender as the convicted person and in a private area out of sight of other persons;
 - 2) Shall never be conducted in the presence of persons of different gender from the convicted person; and
 - 3) Shall not involve the undressing of the upper and lower parts of the body of the convicted person at the same time.
- (7) If a correctional staff member has a grounded suspicion that a convicted person is in possession of an unauthorized item hidden in his or her body cavities, he or she shall inform the director of the correctional facility. If the director of the correctional facility is satisfied that there is a grounded suspicion that the convicted person is in possession of an unauthorized item hidden in his or her body cavities and that a physical examination of his or her body cavities is necessary to find the unauthorized item, the director may issue a written authorization for such physical examination with the consent of the convicted person. Such physical examination shall be conducted only by a medical officer of the same gender as the convicted person, in a private area.
- (8) Any unauthorized item discovered as a result of a search or physical examination of body cavities may be confiscated.
- (9) A search of the cell of a convicted person shall be conducted with respect for his or her personal property.

V. Position of convicted persons

1. Accommodation, nutrition, clothing and health care of convicted persons

Accommodation

Article 35

- (1) A convicted person has a right to accommodation which corresponds to contemporary hygienic conditions and local climatic circumstances.

- (2) The premises in which a convicted person lives and works must be of sufficient space for each convicted person to have at a minimum eight cubic metres of space and an adequate amount of natural and artificial lighting for work and reading, heating and ventilation.
- (3) The premises may not be damp and they must have adequate sanitary installations and other devices necessary for personal hygiene.
- (4) Where accommodation is shared, it shall be occupied by convicted persons suitable to associate with others in those conditions.

Article 36

A convicted person has the right to exercise sufficiently in order to remain healthy and to spend at least two hours daily outside closed premises during free time. If the weather permits, a convicted person may engage in physical exercise in the open air.

Article 37

- (1) The hygiene of convicted persons and the hygiene of premises shall be regularly monitored in correctional facilities.
- (2) In order to ensure the hygiene of convicted persons and the hygiene of premises, convicted persons shall be provided with sufficient cold and hot water, and appropriate toilet and cleaning articles. Installations and devices for personal hygiene shall assure sufficient privacy and shall be well-maintained and clean.
- (3) A convicted person shall be provided with a separate bed and sufficient bedding which shall be clean when issued, kept in good order and changed regularly.

Nutrition

Article 38

- (1) A convicted person has the right to food suitable for him or her to maintain good health and strength in three meals each day, which must be varied and nutritious. The food provided to a convicted person shall take into account his or her age and health, the nature of his or her work, the season and climatic conditions and, as far as possible, his or her religious and cultural requirements.
- (2) A convicted person who works in heavier duties, a sick person, a pregnant woman or a woman who has borne a child has the right to food ordered by a physician.
- (3) A physician or other expert shall check and advise the director of the correctional facility on the quality of meals before delivery and shall record his or her findings in an appropriate book.
- (4) The quantity and quality of food provided to convicted persons shall be determined by

relevant tables approved by the competent public entity in the field of judicial affairs.

(5) The Kosovo Correctional Service shall, as a rule, directly manage the service of providing meals to convicted persons in the correctional facility.

Article 39

(1) A convicted person must have drinking water continuously available.

(2) The medical suitability of food and water, the application of dietary scales and the preparation of meals shall be regularly monitored by the medical service in each correctional facility.

Clothing

Article 40

(1) A convicted persons has the right to have free of charge underwear, clothes and shoes which are suited to the local climatic conditions and the time of year.

(2) A convicted person has the right to special work clothes, shoes and equipment required by the work that he or she undertakes.

Article 41

(1) A convicted person shall wear the uniform of the correctional facility.

(2) The clothing of a convicted person may not have a humiliating or degrading effect.

(3) The competent public entity in the field of judicial affairs may permit persons in a detention centre, an open correctional facility or an open unit of a correctional facility to wear their own clothes.

(4) The director of a correctional facility shall allow detainees on remand and convicted persons to wear their own clothes when they appear in court or go outside the prison, unless this will increase the risk of flight.

Health care

Article 42

(1) A convicted person has the right to health care free of charge.

(2) A convicted person who cannot be offered appropriate medical treatment in the correctional facility shall be sent to a prison hospital, psychiatric institution or another health care institution.

(3) The time spent receiving medical treatment outside the correctional facility is counted in the sentence of imprisonment or long-term imprisonment.

Article 43

(1) Upon the request of the convicted person, the director of the correctional facility may allow a specialist medical examination, if the medical officer has not ordered such an examination.

(2) The convicted person shall bear the costs of such an examination, unless the director of the correctional facility decides otherwise.

Article 44

(1) When a convicted person is seriously ill, the correctional facility shall inform his or her spouse, children and adopted children and if the convicted person has no such relations, the correctional facility shall notify his or her parents, adoptive parents, brother, sister or more distant relatives.

(2) Upon the request of the convicted person, the director of the correctional facility may approve the notification of other persons about the illness.

Article 45

(1) Health care in a correctional facility shall be implemented in accordance with general regulations on health care, health insurance and medical and pharmaceutical services, unless otherwise provided by the present Law.

(2) A correctional facility shall provide conditions for basic medical services.

(3) A correctional facility shall be equipped with a medical service, nursing service and pharmacy service in order to meet the health care needs of convicted persons.

Article 46

(1) A medical officer shall see and examine every convicted person after admission and thereafter, as necessary, in order to identify possible physical or mental diseases and to take all measures necessary for medical treatment.

(2) Health care is provided during imprisonment or long-term imprisonment by periodic and frequent examinations, regardless of whether a request is made by the convicted person.

(3) A medical officer shall visit daily all sick persons, persons who report illness or injury and persons to whom attention is specially directed. The medical officer shall report immediately the presence of illness requiring particular investigation and specialist care.

(4) When a convicted person exhibits behaviour indicating that he or she may attempt to harm him or herself or to commit suicide, staff shall take all the necessary measures to prevent self-injury or suicide. If a convicted person attempts to harm him or herself or to commit suicide, a multidisciplinary team shall initiate the action necessary to assist him or her to address whatever is causing him or her to be inclined to attempt such action.

(5) A convicted person suspected or diagnosed as suffering from an infectious or contagious disease shall be immediately treated. When a mental disorder or an emotional disturbance is suspected, appropriate measures shall be taken without delay, in accordance with the applicable law and rules concerning psychiatric assistance and mental health.

Article 47

(1) A medical procedure, a psychiatric or psychological assessment or treatment (“a procedure”) may only be applied to a convicted person with his or her consent.

(2) The convicted person may refuse to consent to any procedure.

(3) In the event that a convicted person refuses to consent to a procedure, he or she shall normally be asked to sign a statement to the effect that he or she has refused the procedure.

(4) The use of restraint equipment to prevent injury to others or to property is not considered a procedure and consent is not required.

Article 48

A convicted person’s medical information shall be treated as confidential in accordance with professional medical practice and medical codes of ethics.

Article 49

(1) A medical officer shall report to the director of the correctional facility whenever he or she considers that the physical or mental health of a convicted person has been or will be adversely affected by continued imprisonment or long-term imprisonment or by any condition of imprisonment or long-term imprisonment.

(2) The medical officer, in cooperation with the local health authority, shall conduct regular inspections of the correctional facility and advise the director of the correctional facility on:

- 1) The quantity, quality, preparation and serving of food and water;
- 2) The hygiene and cleanliness of the correctional facility and the convicted persons;
- 3) The sanitation, heating, lighting and ventilation of the correctional facility; and

- 4) The suitability and cleanliness of the convicted person's clothing and bedding.

Article 50

If a convicted person is in danger of suffering serious health problems or death, arrangements shall be made to provide him or her with the best treatment available.

Article 51

(1) A decision to refuse food or medical treatment made by a convicted person who has been determined to have the capacity to make an informed and rational judgment shall be respected.

(2) When a convicted person is determined to not have the capacity to make an informed and rational judgment about the administering of food or medical treatment, a medical officer decide the appropriate treatment which he or she considers to be in the best interest of the convicted person.

(3) The determination of whether a convicted person has the capacity to make and informed and rational judgment shall be made by a medical officer. Such determination shall be confirmed by a second medical officer where:

- 1) The convicted person decides to refuse food or medical treatment; or
- 2) The convicted person is determined not to have the capacity to make an informed and rational judgment about the administering of food or medical treatment.

Article 52

The competent public entity in the field of judicial affairs shall establish Standard Operating Procedures on the provision of health care, consent to health care assessment and treatment, hunger strikes and prevention of suicide and self-inflicted injuries.

Article 53

(1) A correctional facility for women shall provide health care services for the health care of pregnant women.

(2) Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in the correctional facility, this fact shall not be mentioned in the birth certificate.

Article 54

(1) A convicted woman who has a child may keep the child until he or she is eighteen months old, and, thereafter, the parents of the child shall agree whether the custody of the

child shall be entrusted to the father, other relatives or other persons.

(2) If the parents do not agree on the custody of the child or if their agreement is harmful to the child, the court that is competent according to the permanent or current residence of the mother at the time she was sentenced shall decide to whom the child shall be entrusted.

(3) When rendering a decision under paragraph 2, the court shall give primary consideration to the best interests of the child, including the child's safety and security as well as his or her physical and emotional well being.

(4) When a child remains in a correctional facility with his or her mother, special provision shall be made for a nursery staffed by qualified persons, where the child shall be placed when he or she is not in the care of his or her mother

(5) The competent public entity in the field of judicial affairs shall issue a directive on the provision of care to mothers and children in a correctional facility.

2. Rights of convicted persons

Article 55

(1) Rehabilitation in a correctional facility shall meet the particular needs of each convicted person. In order to determine all the circumstances and all the factors that are relevant to plan the person's rehabilitation in the correctional facility and his or her social rehabilitation when he or she is released, the observation of the personality shall be carried out at the beginning of the execution of the sentence and continued throughout the sentence.

(2) In the course of the execution of the sentence, the rehabilitation programme shall be integrated or modified so as to adapt it to the progress observed and to other relevant circumstances. Toward this end, an adequate time schedule shall be provided in the programme.

(3) The cooperation of the convicted person shall be fostered in relation to the observation and rehabilitation activities.

Article 56

(1) On the basis of the recommendations of the professional staff of the correctional facility, the director of the correctional facility shall develop a rehabilitation programme.

(2) The rehabilitation programme shall refer to at least the following:

- 1) Placement in an institution or a section within an institution;
- 2) Participation in educational activities;
- 3) Participation in vocational training activities;

- 4) Participation in cultural, formative and sport activities;
 - 5) Work and improvement in professional skills;
 - 6) Family links and contacts with the outside world;
 - 7) Conditions for eligibility for home leave, conditional release or early release;
- and
- 8) Measures aiming at preparation for the final release.

Article 57

- (1) A correctional facility shall organize activities of a rehabilitation programme in accordance with the directives issued by the competent public entity in the field of judicial affairs and the rules on internal order of the correctional facility.
- (2) The rules on internal order of the correctional facility shall be approved by the competent public entity in the field of judicial affairs.

Article 58

- (1) The aim of reintegrating convicted persons into the community shall also be pursued by means of urging and organizing the participation of public and private institutions or bodies, as well as of individuals, in rehabilitation activities.
- (2) Persons who are interested and demonstrate ability to promote contacts between convicted persons in correctional facilities and the outside community shall be permitted to visit correctional facilities under the supervision of the director on the authorization of the competent public entity in the field of judicial affairs.

Submissions

Article 59

- (1) A convicted person has the right to send submissions to the competent authorities in Kosovo.
- (2) A foreign national has the right to send submissions to the liaison office or the diplomatic mission of the State of which he or she is a national or the State which protects his or her interests. A foreign national who is not under the protection of any State has the right to send submissions to competent authorities and organizations in Kosovo and competent international organizations.
- (3) A convicted person has the right to receive and send submissions through the correctional facility.

Correspondence

Article 60

- (1) A convicted person has an unrestricted right to correspondence.
- (2) A convicted person has the right to privacy of letters and other means of communication.
- (3) A letter or another postal item may only be opened if there is a reasonable suspicion that it contains an unauthorized object.
- (4) The convicted person shall be given an opportunity to be present when a letter or another other postal item addressed to or from him or her is opened pursuant to paragraph 3 of the present Article. If he or she is not present, he or she shall be informed immediately. When a letter or another postal item is opened pursuant to paragraph 3 of the present Article, the contents shall only be examined to the extent necessary to determine whether the letter or postal item contains an unauthorized item.
- (5) The director of a correctional facility may issue a written ruling authorizing that a letter or another postal item be opened and read, if there is a reasonable suspicion that it contains evidence of
 - 1) An act that would endanger the security of the correctional facility or any person; or
 - 2) A criminal offence or a plan to commit a criminal offence;and opening and reading the letter or postal item is the least intrusive measure available in the circumstances.
- (6) Where a letter or postal item is opened and read pursuant to paragraph 5 of the present Article, the director of the correctional facility shall promptly inform the convicted person in writing of the reasons for such action and shall give the convicted person an opportunity to make representations with respect thereto, unless the information would adversely affect an ongoing investigation, in which case the convicted person shall be informed of the reasons therefor and given an opportunity to make representations with respect thereto on completion of the investigation.
- (7) A letter or postal item which has been opened and read pursuant to paragraph 5 of the present Article may be withheld if otherwise the security of the correctional facility or any person would be endangered. In such case the convicted person shall be informed immediately and, in the case of an incoming letter or postal item which is withheld, he or she shall be informed, to the extent appropriate, of its contents. A letter which has been withheld shall be handed over to the convicted person as soon as the grounds for withholding it cease to exist and at the latest at the end of his or her term of imprisonment or long-term imprisonment, unless exceptionally a panel of three judges of the competent municipal court orders otherwise.

(8) Letters and other postal items from convicted persons to the Office of the Ombudsperson of Kosovo may not be examined in any circumstances.

Article 61

(1) A convicted person may correspond with his or her defence counsel without restriction and supervision of the content of the correspondence.

(2) Exceptionally, a panel of three judges of the competent municipal court may issue a ruling upon the request of the director of the correctional facility that:

1) Correspondence of a convicted person with his or her defence counsel may be opened if the conditions set forth in Article 60, paragraph 3 are met. In such case, paragraph 4 of Article 60 shall apply.

2) The director of the correctional facility may open and read correspondence of a convicted person with his or her defence counsel if the conditions set forth in Article 60, paragraph 5 are met. In such case, paragraph 6 of Article 60 shall apply.

(3) The ruling of the panel of three judges shall be issued within 48 hours of the receipt of the request of the director of the correctional facility.

Article 62

(1) A convicted person has the right to give and receive telephone calls.

(2) The competent public entity in the field of judicial affairs shall issue a directive on the convicted person's right to give and receive telephone calls.

Legal assistance

Article 63

The correctional facility shall facilitate the access of the convicted person to legal assistance in connection with the execution of the sentence of imprisonment or long-term imprisonment and undertaking necessary actions to protect rights and interests guaranteed by law.

Visits

Article 64

(1) A convicted person shall have the right to receive a visit at least once each month for a minimum of one hour by his or her spouse, child, adopted child, parent, adoptive parent and other relatives by blood in a direct line or in a collateral line to the fourth degree.

- (2) Such visits shall take place in special premises within sight of the staff of the correctional facility.
- (3) The director of the correctional facility may allow a convicted person to receive visits from other persons.
- (4) Special rules shall apply to visits to convicted mothers by their children which shall take place on a more regular basis.
- (5) The president of the municipal or district court where the correctional facility is located or his or her delegate may visit and speak to convicted persons at any time at his or her request.
- (6) The competent public entity in the field of judicial affairs shall issue a directive on the rules for the screening of visitors of convicted persons, security during visits, the procedures for specific categories of visitors and the conditions under which visits may be refused or suspended by the director of the correctional facility for security and safety reasons.

Article 65

- (1) A convicted person may be visited by his or her authorized representative who represents him or her in legal proceedings.
- (2) The convicted person has the right to communicate confidentially with his or her authorized representative orally. Communications between the convicted person and his or her authorized representative may be within sight but not within the hearing of staff of the correctional facility.

Article 66

- (1) A foreign national has the right to be visited by the consular or diplomatic representative of the State of which he or she is a national or the State which protects his or her interests. A foreign national who is not under the protection of any State has the right to be visited by competent authorities and organizations in Kosovo and competent international organizations.
- (2) A consular or diplomatic representative of a foreign State and a representative of a competent international organization is obliged to notify the director of the correctional facility of the visit.

Article 67

The competent public entity in the field of judicial affairs shall issue a directive to regulate the time, duration and nature of visits of convicted persons.

Spending time in special premises
Article 68

- (1) A convicted person has the right to spend time with his or her spouse and children at least once every three months for minimum of three hours.
- (2) The manner of the implementation of this right of the convicted person shall be regulated in more detail in directives of the competent public entity in the field of judicial affairs.

Receiving parcels
Article 69

- (1) The convicted person has the right to receive parcels containing items for personal use.
- (2) Parcels shall be inspected in the presence of the convicted person before delivery to him or her.
- (3) The weight and permissible content of the parcels shall be regulated by a directive of the competent public entity in the field of judicial affairs.

Personal property
Article 70

- (1) Convicted persons may not keep with them any objects other than those authorized by the directive on the rules on internal order of the correctional facility.
- (2) Personal property of convicted persons placed in safe custody by the director of the correctional facility shall be kept in good condition. If it is found necessary to destroy any object, this shall be recorded and the convicted person shall be informed.
- (3) Any property belonging to a convicted person which remains unclaimed for a period of more than three years after his or her release or death, may be sold or otherwise disposed of. The proceeds of any sale shall be credited to the Kosovo Consolidated Budget.

Money
Article 71

- (1) A convicted person may not carry money while serving a sentence of imprisonment or long-term imprisonment unless this is authorized by the directive on the rules on internal order of the correctional facility.
- (2) Any money that the prisoner has with him or her on being admitted to a correctional facility must be deposited in a savings account in his or her name, unless he or she decides otherwise.

- (3) The competent public entity in the field of judicial affairs shall issue a directive to regulate the procedures under the present article.

Work

Article 72

- (1) A convicted person who is capable of working has the right and obligation to work.
- (2) The purpose of such work is for a convicted person to gain, maintain and develop his or her working capabilities, working practices and professional knowledge in order to begin living a normal life again as soon as possible after serving the sentence.

Article 73

- (1) The work of convicted persons shall be useful and shall not be degrading.
- (2) Work may not be imposed as form of disciplinary punishment.
- (3) Realizing economic profit must not harm the achievement of the purpose of the work or the interests of convicted persons.

Article 74

- (1) A convicted person may choose the type of work he or she prefers to perform, if such choice is practicable and in accordance with an appropriate vocational programme.
- (2) A professional team at the correctional facility shall assess the abilities of the convicted person.

Article 75

- (1) A convicted person may be employed inside or outside the correctional facility.
- (2) The organization and method of work inside a correctional facility shall resemble as closely as possible those of similar work outside a correctional facility.

Article 76

- (1) A convicted person shall work forty hours each week, but working hours may be longer under conditions established by law.
- (2) A convicted person who attends general or vocational education classes shall work proportionately fewer hours.
- (3) A convicted person may be ordered to work outside working hours for up to two

hours each day on the maintenance of cleanliness and other routine duties in a correctional facility.

(4) When, in accordance with general provisions, time spent on work is recognized for the purpose of gaining a professional qualification, time spent on the same type of work during the duration of a sentence of imprisonment or long-term imprisonment shall also be recognized for that qualification.

Article 77

A convicted person has the right to remuneration for his or her work which shall be paid every month. The remuneration for each category of worker shall be set at an equitable rate to be decided upon by the competent public entity in the field of judicial affairs and to be established in relation to the quantity and quality of work actually carried out, the organization and type of work.

Article 78

(1) The convicted person may freely have at his or her disposal 70% of the remuneration for work and the remainder shall be placed in a savings account.

(2) The director may approve the expenditure of remuneration from the savings account if the money is essential for the convicted person or his or her family.

Article 79

(1) A convicted person has the right to benefits and safety and health precautions for his or her work in accordance with the general provisions on labour. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favorable than those extended by law to workers outside.

(2) A convicted person, who through no fault of his own, is temporarily not capable of work has the right to compensation in accordance with general provisions.

(3) A correctional facility shall cover the most urgent needs of a convicted person who through no fault of his own cannot work and does not have resources of his or her own.

(4) The competent public entity in the field of judicial affairs should issue a directive on the terms and conditions of work, including compensation in case of incapacity for work.

Article 80

(1) The maximum daily and weekly working hours of convicted persons shall be determined in accordance with the general provisions on labour. The hours shall allow one day of rest each week and sufficient time for education and other activities which are necessary as part of the rehabilitation of convicted persons.

(2) A convicted person who has worked for more than six months while in the correctional facility shall be entitled to annual vacation in accordance with the general provisions on labour.

(3) A convicted person shall be remunerated during the period of his or her annual vacation as if he or she is working.

Article 81

A convicted woman has the right not to work because of pregnancy, giving birth and maternity in accordance with the general provisions on labour.

Article 82

(1) A convicted person has all rights pursuant to general provisions in relation to discoveries and technical innovations achieved during the period of serving a sentence.

(2) Artistic and other creative works produced by a convicted person during his or her free time are his or her intellectual property.

Vocational Training

Article 83

A correctional institution shall provide opportunities for convicted persons to obtain vocational training to improve their skills or to learn new skills.

Article 84

The competent public entities responsible for public education and labour shall cooperate in organizing vocational training courses.

Article 85

Participation in vocational training courses shall take place during working hours. A convicted person who does not work as a consequence of participation in vocational training courses shall be entitled to an allowance.

Education

Article 86

(1) A convicted person has the right to primary and secondary education which shall be in accordance with general provisions, organized in the correctional facility.

- (2) Special courses shall be organized for illiterate convicted persons.
- (3) To the extent possible, the access of convicted persons to education courses provided by mail, radio or television, will be facilitated.
- (4) A correctional facility shall also organize other forms of education for convicted persons.

Article 87

- (1) The director of the correctional facility shall allow special arrangements to enable the convicted person to receive primary, secondary, university and other education. The convicted person shall pay the expenses of such special arrangements.
- (2) Volunteers who wish to assist convicted persons with secondary and university education may be authorized to enter the correctional facility by the director of the correctional facility.

Article 88

Participation in educational courses shall take place during working hours. A convicted person who does not work as a consequence of participation in educational courses shall be entitled to an allowance.

Article 89

A certificate issued upon completion of vocational training or educational courses shall not indicate that the courses were completed while the convicted person was in a correctional facility.

Information **Article 90**

- (1) A convicted person has the right to have access to the daily and periodical press in his or her mother tongue and other sources of public information.
- (2) A convicted person has the right to have access to radio and television programmes. The selection of programmes shall take account of the preferences of convicted persons as well as their educational and recreational needs.
- (3) All correctional facilities shall be equipped with a library for the use of convicted persons. The library shall contain books (including basic texts on human rights and criminal laws), magazines and newspapers in the mother tongue of the convicted persons to provide a choice for the convicted persons.

(4) Books, magazines and newspapers in the library shall be selected so as to improve the convicted persons' level of knowledge, to develop their ability to have a critical approach to daily events as well as to give them recreational opportunities.

(5) A convicted person has the right to read books from the library of the correctional facility and books obtained by himself or herself.

Cultural, recreational and sport activities

Article 91

(1) Cultural, recreational and sport activities, as well as other activities aimed at the development of the convicted person's personality, shall be organized inside correctional facilities with the assistance of public and private entities interested in reintegrating convicted persons in the community.

(2) The active participation of convicted persons in the organization of cultural, recreational and sport events shall be encouraged without prejudice to security and order.

Right to practise religion

Article 92

(1) A convicted person has the right to take part in religious ceremonies and to read religious literature.

(2) The right to be visited by a qualified representative of a religion cannot be restricted. The time of visits is determined by the directive on the rules on internal order of the correctional facility.

(3) Upon the request of convicted persons, the director of a correctional facility may arrange for regular visits by a qualified representative of a religion to the correctional facility, if the number of convicted persons of the same religious faith justifies it.

(4) The director of the correctional facility may temporarily exclude convicted persons from a religious ceremony, if such exclusion is necessary to maintain order and safety and the qualified representative of the religion will be notified of this.

Article 93

Religious ceremonies shall be held in special suitable premises of a correctional institution.

Prison Leave

Article 94

(1) Prison leave may be granted as a privilege by the director of the correctional facility.

(2) The rehabilitation programmes of convicted persons shall provide for the possibility of prison leave on educational, occupational, family and other social grounds. As part of the rehabilitation programme, prison leave shall be monitored by the prison social workers in cooperation with the social services of the local community.

(3) Prison leave may be granted in the form of day leave or overnight stay for a maximum of fourteen days each year.

(4) When deciding on whether to grant prison leave, the director of the correctional facility shall take into consideration the following factors:

1) The criminal offence for which the convicted person is serving a sentence of imprisonment or long-term imprisonment and any criminal offences which he or she has committed in the past;

2) The convicted person's attitude to the criminal offence;

3) The behaviour of the convicted person during imprisonment or long-term imprisonment;

4) The risk of failure to return and the possible danger to the community in the case of such failure;

5) The family background and family contacts of the convicted person;

6) Security information that might indicate the convicted person or other persons is at risk.

(5) A foreign national shall not be excluded from arrangements for prison leave solely on account of his or her nationality. Cooperation of public and private organizations willing to provide assistance shall be encouraged.

(6) Denial of prison leave shall not be imposed as a disciplinary punishment.

(7) If the director of the correctional facility decides to deny the prison leave, he shall provide the convicted person with the reasons for denial.

(8) When a convicted person fails to comply with conditions imposed on the prison leave, the authorization for prison leave may be withdrawn. If the convicted person fails to return to the correctional facility on the expiry of his or her prison leave without a justifiable reason, he or she may be subject to a disciplinary punishment; where the absence is longer than 12 hours, the convicted person shall be considered to have escaped from the institution in which he or she is serving his or her punishment for the purposes of proceedings for issuing a wanted notice under Article 544 of the Provisional Criminal Procedure Code.

Semi-liberty as a privilege
Article 95

- (1) Semi-liberty may be granted as a privilege by the competent public entity in the field of judicial affairs. All convicted persons are eligible for semi-liberty. The assessment and recommendation to grant semi-liberty is made by a team composed of at least the following: prison social worker, correctional staff and medical staff.
- (2) The competent public entity in the field of judicial affairs shall issue a directive on granting and implementing semi-liberty.

Compassionate leave
Article 96

- (1) In case of the serious illness, imminent danger of death or the death of a family member, a convicted person may be granted leave by the director of the correctional facility, in accordance with a directive of the competent public entity in the field of judicial affairs.
- (2) Leave may also be granted exceptionally for particularly serious personal or family events.
- (3) The director of the correctional facility may impose any conditions that he or she considers reasonable and necessary in order to protect society when granting leave pursuant to the present article, including ordering the convicted person to be escorted while on leave by a correctional staff member or other person authorized by the director.

Complaints and petitions
Article 97

- (1) A convicted person shall be provided with information about prisoners' rights and obligations and about the proceedings for submitting complaints and petitions.
- (2) A convicted person has the right to submit a complaint to the director of the correctional facility regarding a violation of his or her rights or other irregularities committed against him or her in the correctional facility.
- (3) The director of the correctional facility or a person authorized by him or her is obliged to investigate carefully the grounds for the complaint and to issue a ruling on it.
- (4) The director of the correctional facility or a person authorized by him or her is obliged to:
 - 1) Record all complaints and any measures taken to address them;
 - 2) Deal with complaints promptly and serve on the convicted person the ruling on the complaint;

3) If the complaint concerns an alleged assault, ensure that the convicted person undergoes an immediate medical examination and receives prescribed treatment; and

4) Report any criminal offence to the competent public prosecutor in accordance with Chapter XXIII of the Provisional Criminal Procedure Code.

(5) If the convicted person does not receive a reply to the complaint or is not satisfied by the ruling issued, he has the right to submit a written petition to the competent public entity in the field of judicial affairs which shall review the complaint and serve a decision on the convicted person.

(6) The convicted person has the right to make a complaint to the responsible official who supervises the work of the correctional facility without the presence of employees and appointed persons.

(7) The content of a complaint and a petition is confidential.

Privileges of a sentenced person Article 98

(1) The director of a correctional facility may allocate to a convicted person who is behaving well and is working hard the following privileges:

1) An extended right to receives packages;

2) An extended right to receive visits, including visits from a wider circle of persons;

3) Receiving visits in the correctional institution within sight, but not within the hearing, of supervisors;

4) Receiving visits outside the correctional institution;

5) More comfortable accommodation;

6) Leave from the correctional facility;

7) Visits to the family and relations during weekends and holidays;

8) Leave from the correctional facility for up to seven days each year;

9) Extraordinary leave of seven days; and

10) The right to spend annual leave outside the correctional facility.

(2) The conditions and manner of use of the privileges are determined by the rules on the internal order of the correctional institution.

3. Transfer of convicted persons

Article 99

(1) A convicted person may be transferred from one correctional facility to another or from one unit of the correctional facility to another if this is necessary:

- 1) To implement his or her rehabilitation programme or work programme;
- 2) To encourage contacts between the convicted person and his or her family and community with a view towards facilitating his or her final social reintegration;
- 3) For reasons of safety and security of the convicted person; or
- 4) In the interests of preserving order and discipline within the correctional facility.

(2) A decision on transfer of a convicted person shall be rendered by the competent public entity in the field of judicial affairs on the motion of the director of the correctional facility or on the request of the convicted person or an immediate family member.

(3) In case of a transfer which the convicted person has not requested, the director of the correctional facility shall ensure that the convicted person is notified of the reasons for the transfer within 24 hours of the decision being rendered.

(4) The spouse of the convicted person, a family member or any other person designated by the convicted person should be notified of the transfer within 24 hours of the decision being rendered.

(5) The prisoner may not resubmit a request for transfer until six months have elapsed from his or her last request for a transfer.

4. Suspension of the execution of a sentence of imprisonment or long-term imprisonment

Suspension of execution of sentence by a decision of the competent public entity in the field of judicial affairs

Article 100

Upon the request of a convicted person or a member of his or her immediate family or on the motion of the director of correctional facility, the competent public entity in the field of judicial affairs may on reasonable grounds permit a suspension of the execution of a sentence of imprisonment or long-term imprisonment, which may not last longer than three months. Exceptionally, for the purpose of medical treatment the suspension may last until the completion of the treatment.

Article 101

- (1) The competent public entity in the field of judicial affairs shall suspend the execution of a sentence of imprisonment or long-term imprisonment when a convicted person has been sent to a correctional facility before a ruling on a request for a stay of the execution of the sentence enters into force and later it is established that the request was grounded.
- (2) In such a case the duration of the service of the sentence is not to be counted in the length of the suspension of the execution of the sentence.

Suspension of execution of a sentence due to extraordinary legal remedies

Article 102

The competent court which decides on a request for reopening criminal proceedings submitted in favour of the convicted person may suspend the execution of the sentence even before the ruling which allows the reopening of criminal proceedings enters into force.

Article 103

- (1) The suspension of the execution of a sentence is always allowed on the request of the competent public prosecutor until a decision is rendered on the application of a legal remedy.
- (2) The decision on the suspension of the execution of a sentence ceases to have effect if the public prosecutor does not use the legal remedy within thirty days from the date of receipt of the decision on suspension.

Revocation of suspension of execution of sentences

Article 104

- (1) The competent public entity in the field of judicial affairs shall revoke the suspension of the execution of a sentence if it later establishes that reasons supporting the suspension did not exist or ceased to exist or that the convicted person used the suspension contrary to the approved purpose.
- (2) If a convicted person does not report to the correctional facility, after the suspension of the execution of the sentence lapses or is revoked, the correctional facility shall immediately inform the police who shall bring the convicted person for further service of sentence.

Effects of suspension of execution of sentences

Article 105

- (1) The period of suspension of the execution of a sentence shall not be counted as part of the sentence to be served.

(2) During the suspension of the execution of a sentence, the convicted person does not have the rights provided by the present Law.

(3) In all other matters the provisions of the present Law regulating a stay of execution of a sentence shall be applied mutatis mutandis to the suspension of the execution of a sentence.

5. Death of convicted persons

Article 106

(1) In the case of the death of a convicted person, the correctional facility shall immediately notify his or her spouse, children and adopted children and, if there are no such persons, his or her parents, adoptive parent, brother or sister or more distant relatives.

(2) The sentencing court, the competent public entity in the field of judicial affairs and the Central Civil Registry shall be notified of the death of the convicted person.

Article 107

(1) The physical remains of the convicted person and his or her personal effects shall be delivered to his or her family.

(2) If the convicted person has no family or if his or her family does not accept his or her physical remains, the physical remains of the convicted person shall be buried at the expense of the correctional facility.

6. Disciplinary procedures and punishment

Disciplinary system and violations

Article 108

(1) The purpose of the disciplinary system established by the present Law and directives of the competent public entity in the field of judicial affairs is to encourage convicted persons to conduct themselves in a manner that promotes the good order of the correctional facility, through a process that contributes to the rehabilitation of the convicted person and his or her successful reintegration into the community.

(2) Disciplinary punishments shall only be imposed on convicted persons in accordance with the following provisions of the present Law.

(3) A convicted person commits a minor disciplinary violation if he or she:

- 1) Disobeys a reasonable order of a staff member;
- 2) Is in an area prohibited to convicted persons without authorization;
- 3) Is disrespectful or abusive towards a staff member;

4) Is disrespectful or abusive towards any person in a manner that is likely to provoke that person to be violent;

5) Refuses to work or leaves work or does not attend work without a reasonable excuse;

6) Engages in gambling;

7) Willfully disobeys a written rule governing the conduct of convicted persons;
or

8) Attempts to do, or assists another person to do any action set forth in subparagraphs 1) to 7) of this paragraph.

(4) A convicted person commits a serious disciplinary violation, if he or she:

1) Fights with, assaults or threatens to assault another person;

2) Willfully or recklessly damages or destroys property that is not his or her own;

3) Commits theft;

4) Is in possession of stolen property;

5) Offers, gives or accepts a bribe or reward;

6) Is in possession of or deals in an unauthorized item;

7) Consumes without authorization a dangerous narcotic drug, a psychotropic substance or alcohol;

8) Creates or participates in a disturbance or any other activity that is likely to jeopardize the safety and security of the correctional facility;

9) Performs any preparatory action for the purpose of escaping; or

10) Leaves the correctional facility or fails to return to the correctional facility without authorization.

Disciplinary punishments

Article 109

(1) Disciplinary violations are punished by disciplinary punishments.

(2) Disciplinary punishments are the following:

1) Reprimand;

- 2) Deprivation of an assigned privilege;
- 3) An order to make restitution; and
- 4) Solitary confinement.

Article 110

- (1) A disciplinary punishment shall be proportionate to the disciplinary violation committed by the convicted person. A convicted person shall not be punished twice for the same act.
- (2) A reprimand may be imposed when a convicted person has committed a minor disciplinary violation.
- (3) A deprivation of an assigned privilege, or an order to make restitution may be imposed when a convicted person has committed a minor or a serious disciplinary violation.
- (4) Solitary confinement for a period not exceeding fifteen days may be imposed only for a serious disciplinary violation if the other disciplinary punishments would not be sufficient to achieve the purpose of a disciplinary punishment. In such case, solitary confinement shall be imposed for the shortest period necessary to achieve the purpose of a disciplinary punishment.

Article 111

- (1) If a convicted person, by one or more acts, has committed several disciplinary violations for which disciplinary proceedings are conducted at the same time (concurrent disciplinary violations), the disciplinary punishment for each disciplinary violation shall be determined first and then an aggregate disciplinary punishment shall be imposed for all disciplinary violations.
- (2) In case of the imposition of a single disciplinary punishment for concurrent disciplinary violations, solitary confinement shall not exceed thirty days.
- (3) The total period of solitary confinement of a convicted person may not exceed two months during a single calendar year.

Conditional stay of execution of disciplinary punishments

Article 112

If the purpose of a disciplinary punishment other than a reprimand may be achieved even without the execution of the disciplinary punishment, the execution of the disciplinary punishment may be conditionally stayed for six months.

Article 113

- (1) The conditional stay of the execution of a disciplinary punishment shall be revoked if during the period of stay of execution a new disciplinary punishment other than a reprimand is imposed on the convicted person.
- (2) When a conditional stay of the execution of a disciplinary punishment is revoked, an aggregate punishment shall be imposed for both the prior and the new disciplinary violation. The earlier disciplinary punishment shall be treated as determined and the aggregate disciplinary punishment shall be imposed by the application of the rules for calculating disciplinary punishments for concurrent disciplinary offences.
- (3) When a conditional stay of execution of the disciplinary punishment of solitary confinement is revoked, the solitary confinement imposed shall not exceed twenty days if deprivation of assigned privileges is imposed for the later violation, but if solitary confinement is imposed for the later offence, the solitary confinement for a maximum of thirty days may be imposed.

Disciplinary procedure

Article 114

- (1) In cases of serious disciplinary violations, the director of the correctional institution conducts disciplinary proceedings and renders decisions on them. In cases of minor disciplinary violations, a senior supervisor at the correctional institution conducts disciplinary proceedings and renders decisions on them.
- (2) Disciplinary proceedings shall be conducted at a hearing at which the convicted person shall be heard and his or her statements shall be verified. A convicted person who does not have an adequate understanding of the language used in the disciplinary proceedings is entitled to the assistance of an interpreter. He or she shall be given a reasonable opportunity to summon witnesses, question witnesses, introduce evidence, examine exhibits and documents and make submissions, including submissions respecting the disciplinary punishment.
- (3) Before a disciplinary punishment is imposed, the behavior and work performance of the convicted person shall be assessed.
- (4) The disciplinary punishment of solitary confinement may not be imposed before a written medical opinion is obtained which states that the convicted person is in a physical and psychological condition to endure a period of time of solitary confinement in the room in which solitary confinement is executed.
- (5) A reasoned decision on a disciplinary punishment shall be set out in writing and delivered to the convicted person.

Article 115

- (1) A convicted person has the right to appeal against a ruling imposing the disciplinary punishment of solitary confinement within three days of receiving the ruling.
- (2) The appeal does not stay the execution of the ruling.

Article 116

- (1) The director of the correctional facility or the senior supervisor may modify or rescind a ruling on a disciplinary punishment within seventy-two hours of receiving an appeal.
- (2) If, within seventy-two hours of receiving the appeal, the director of the correctional facility or the senior supervisor does not modify or rescind the ruling or modifies it in a manner not proposed in the appeal, he or she shall deliver the appeal, within a further period of twenty four hours, to the competent public entity in the field of judicial affairs.
- (3) The competent public entity in the field of judicial affairs shall decide on the appeal within three days of receiving it.

Article 117

- (1) When the purpose of the disciplinary punishment has been achieved, the director of the correctional facility may terminate the execution of a disciplinary punishment before the expiry of the period for which it has been imposed.
- (2) The director of the correctional facility shall terminate the execution of a disciplinary punishment of solitary confinement, if according to a written opinion of a medical officer further solitary confinement will threaten the health of a convicted person.

Execution of the disciplinary punishment of solitary confinement**Article 118**

- (1) The disciplinary punishment of solitary confinement consists of the continuous and isolated confinement of a convicted person in a special room.
- (2) The room for the execution of solitary confinement shall consist of at least ten cubic meters of space, a sanitary device, daily light, potable water, a bed with bed sheets, a table, a chair and heating.

Article 119

- (1) During the execution of solitary confinement, a convicted person shall have the same hygienic and health conditions as other convicted persons in the correctional facility and shall be permitted to be outside the closed premises for at least one hour each day for fresh air and

exercise. The convicted person shall also have the right to one visit from a spouse or other family member in a 15 day period.

(2) During the period of solitary confinement, a convicted person shall have access to textbooks and books.

(3) A convicted person who is subject to solitary confinement shall be visited by a medical officer every day and by the director of the correctional facility and an educator once every seven days.

Article 120

The competent public entity in the field of judicial affairs shall issue a directive on disciplinary punishments.

7. Material responsibility of convicted persons

Article 121

(1) A convicted person is obliged to compensate for damage caused deliberately or by gross negligence to the correctional facility.

(2) The director of the correctional facility shall decide on the damage, the cost of the damage and the period within which the compensation shall be paid.

(3) A convicted person may appeal to the competent public entity in the field of judicial affairs against a ruling on compensation for damage within eight days of receipt of the ruling

Article 122

(1) If, after the ruling of the competent public entity in the field of judicial affairs, the convicted person does not pay for damage of an amount less than 100 EUR, the correctional facility shall be compensated from the savings account of the convicted person.

(2) A convicted person may, through civil litigation, request the return of the money taken from him or her to cover the damage.

8. Use of force against convicted persons

Conditions for use of force

Article 123

(1) Force may be used against a convicted person only if it is strictly necessary to prevent:

- 1) Escape;

- 2) Physical attack on another person;
 - 3) Self-inflicted injury;
 - 4) Causing material damage; or
 - 5) Active or passive resistance during the execution of legal orders by a correctional official.
- (2) The force that is used must be the minimum and proportionate to its objective.
- (3) Force may be used only when it is authorized by the director of the correctional facility, unless a correctional officer reasonably believes that the director would authorize the use of force and that delay in obtaining that authorization would result in the objective not being attained.
- (4) If force is used without authorization, pursuant to paragraph 3 of the present Article, the correctional officer shall report the action taken to the director of the correctional facility as soon as possible.
- (5) Where force is used, the convicted person concerned shall undergo an immediate medical examination and receive the prescribed treatment.

Restraint equipment Article 124

- (1) Restraint equipment may only be issued to a correctional officer upon the approval of the director of a correctional facility if the correctional officer is trained in the use of such equipment.
- (2) Restraint equipment includes any device used to temporarily restrict or limit the free movement of a convicted person. The use of chains and irons shall be prohibited.
- (3) Restraint equipment shall not be applied as punishment and may only be used:
- 1) To effect a transfer or escort;
 - 2) On medical grounds under the direction and supervision of a medical officer;
 - 3) If a convicted person fails to lay down a weapon or some other dangerous item after of being ordered to do so;
 - 4) By the order of the director of the correctional facility, as a last resort, to protect a convicted person, to prevent injury to others or to prevent serious damage to property; or
 - 5) To prevent an escape.
- (4) The use of restraint equipment shall be reported in writing.

Use of firearms
Article 125

- (1) A firearm may only be issued to a correctional officer upon the approval of the competent public entity in the field of judicial affairs if the correctional officer is trained in its use.
- (2) A firearm may only be used where the security of the correctional facility or the safety of persons is threatened by one or more convicted persons.
- (3) The competent public entity in the field of judicial affairs must establish a suitable armoury for the safe storage of firearms and ammunition.
- (4) The use of a firearm shall be reported in writing.

Duty to inform about the application of force

Article 126

The director of a correctional facility shall immediately inform the competent public entity in the field of judicial affairs about the application of force against a convicted person.

Article 127

The competent public entity in the field of judicial affairs shall issue a directive on the use of force, the issuance and use of restraint equipment and the issuance, use and storage of firearms.

9. Conditional Release

Article 128

- (1) A convicted person is eligible for conditional release in accordance with Article 80 of the Provisional Criminal Code.
- (2) A convicted person has the right to submit a request for conditional release through the correctional facility in which he or she is serving his or her sentence to the panel established pursuant to paragraph 5 of Article 80 of the Provisional Criminal Code (the conditional release panel).
- (3) The director of the correctional facility may submit a motion for conditional release.
- (4) Upon the submission of a request or a motion for conditional release, the director of the correctional facility shall immediately submit to the conditional release panel a copy of the personal file of the convicted person and a report on the convicted person by a multi-professional team in the correctional facility.

- (5) The report under paragraph 4 of the present article shall set forth:
- 1) The nature of the criminal offence committed by the convicted person
 - 2) The attitude of the convicted person to the criminal offence and the victim and the victim's family;
 - 3) Any previous criminal offences committed by him or her;
 - 4) His or her family circumstances and social background;
 - 5) His or her physical or psychological state;
 - 6) His or her behaviour in the correctional facility and the progress achieved in removing the factors that caused the criminal offence;
 - 7) His or her post-release plans;
 - 8) The support that would be available to him or her on release; and
 - 9) Any circumstances indicating that he or she will not commit a new criminal offence.

Article 129

- (1) The conditional release panel, established by the competent public entity in the field of judicial affairs, shall consist of one judge and two lay judges who shall have knowledge and experience in psychology, criminology, psychiatry, pedagogy, sociology and other social sciences relating to conditional release.
- (2) The conditional release panel, shall decide on all requests and motions for conditional release.
- (3) The conditional release panel shall issue directives governing its work. Such directives shall be in accordance with the present Law.

Article 130

- (1) A ruling on conditional release shall be delivered to the convicted person within three days of its issuance and it shall also be filed with the court which sentenced him or her.
- (2) A ruling granting conditional release shall contain, *inter alia*, the date on which the convicted person shall be released from serving his or her sentence.
- (3) If conditional release is not granted, the ruling shall contain, *inter alia*, the date on which the conditional release panel may reconsider the convicted person's request for conditional release.

(4) If a disciplinary punishment of solitary confinement is imposed on the convicted person between the date of issuance of the ruling on conditional release and the date of conditional release from service of the sentence, the conditional release panel shall reconsider the ruling.

Article 131

(1) Within five days of the date of release, a person who is conditionally released is obliged to inform the police of his or her temporary residence during the period of his or her conditional release.

(2) A person who is conditionally released is obliged to report to the Probation Service during the period of his or her conditional release.

(3) If a person who is conditionally released changes temporary residence, he or she is obliged to inform the police and the Probation Service.

(4) If the person who is conditionally released fails to perform any one of the obligations set forth in paragraphs 1-3, the court which sentenced him or her may impose a fine not exceeding 100 EUR.

Effect of conditional release on rights provided by the present Law Article 132

During conditional release a convicted person does not have the rights provided by the present Law.

10. Release of convicted persons from service of sentences

Release due to completion of sentence Article 133

(1) A convicted person shall be released from the correctional facility on the day when his sentence of imprisonment or long-term imprisonment is completed.

(2) If the last day of the sentence falls on a Saturday, a Sunday or an official holiday, the convicted person shall be released the last working day before that day.

(3) A convicted person shall be released from any work or tasks at least three days before the day of release.

Early release
Article 134

- (1) The director of a correctional facility may release a convicted person before the completion of his or her service of the sentence of imprisonment or long-term imprisonment if he or she has demonstrated good behaviour, success in his or her work and other activities.
- (2) The director of a correctional facility may grant early release under paragraph 1 of the present article, if the sentenced person has served at least three-quarters of the sentence of imprisonment or long-term imprisonment and if three months or less of his or her sentence remains.
- (3) If a disciplinary punishment of solitary confinement is imposed on the convicted person between the date of issuance of the ruling on early release and the date of early release from service of the sentence, the director of a correctional facility shall reconsider the ruling.
- (4) The ruling on early release under the present article shall be delivered to the convicted person within three days of its issuance and filed with the sentencing court.

Release on grounds of pardon
Article 135

The convicted person who is pardoned shall be released on the same day as the correctional facility receives the decision on pardon and no later than twenty-four hours from the receipt of the decision.

Release on grounds of amnesty
Article 136

- (1) In the case of the promulgation of a law on amnesty, the director of a correctional facility shall, within twenty-four hours of the entry into force of such law, inform in writing the sentencing court of the convicted persons who are subject to the amnesty.
- (2) The competent public prosecutor or a convicted person who considers that he or she is subject to the amnesty may submit a request for release on grounds of amnesty to the sentencing court.
- (3) The sentencing court shall decide on the existence of the conditions for release on grounds of amnesty.
- (4) The court shall issue a ruling on the release of a convicted person within three days from receipt of the information or request.

Article 137

- (1) The competent public prosecutor and the convicted person may, within three days from the receipt of the ruling at first instance, submit an appeal directly to the higher court.
- (2) An appeal shall suspend the execution of the ruling.

Article 138

- (1) A convicted person shall be released from the correctional facility on the same day that the correctional facility receives the final ruling on release on grounds of amnesty and no later than twenty-four hours from the receipt of the ruling.
- (2) If an appeal has not been submitted against the ruling at first instance, the convicted person shall be released on the first day after the expiry of the prescribed period of time for submitting the appeal.

Other provisions on release of a convicted person from the service of a sentence**Article 139**

- (1) Before the release, a convicted person shall be examined by a medical officer no more than three working days prior to the date of release and a medical report shall be placed in the health file of the convicted person.
- (2) Where medical treatment is necessary after release, the medical officer, in consultation with the director of the correctional facility, shall arrange for such treatment prior to release. The convicted person shall be given a three (3) day supply of requisite medication upon release.
- (3) A convicted person who is seriously ill or is not able to travel due to illness shall be sent by the correctional facility to the nearest health care institution.

Article 140

- (1) Upon release from a correctional facility, a convicted person shall be issued a release paper which shall contain, *inter alia*, identifying data on the convicted person, the date of admission to the correctional facility, the date of release and, where appropriate, the date when the convicted person must report to a police station. A convicted person who has been conditionally released shall be issued a release paper indicating his or her obligation not to commit any new criminal offence and specifying the period of conditional release granted to him or her.
- (2) The release paper serves as evidence of the identity of the convicted person until he arrives at a place of permanent or temporary residence.

Article 141

- (1) Upon release, a convicted person shall be given all personal effects and items, which were kept for him or her by the correctional facility, his or her savings and any money he or she received during the period of the sentence.
- (2) The correctional facility shall provide underwear, clothes and shoes to a convicted person who does not have such items or the financial means to obtain them.

Article 142

- (1) The costs of transportation to the place of permanent or temporary residence shall be paid for a convicted person.
- (2) The costs of transportation to a border crossing-point shall be paid for a convicted foreigner, if special provisions do not provide otherwise.
- (3) Transportation expenses shall be covered by the correctional facility from which a convicted person is released.

Article 143

- (1) Prior to release, the correctional facility shall inform the sentencing court and the police station closest to the place of permanent or temporary residence of the convicted person about the release of the convicted person.
- (2) In case of a convicted person who is a minor, the correctional facility shall inform his or her family and the competent Centre for Social Work, wherever possible, about the release of the convicted person.
- (3) The preparation for the release of a person with a mental disorder shall be undertaken in consultation with the director of the correctional facility, the psychiatrist treating the convicted person in the correctional facility and the appropriate mental health authorities in the community.

11. Assistance after release from sentence**Article 144**

- (1) If the convicted person needs assistance after release, the correctional facility shall inform the Centre for Social Work that is competent according to the permanent or temporary residence of the convicted person about this at least three months before the release.
- (2) The correctional facility shall inform the Centre for Social Work of the nature of the assistance that the convicted person requires.

Chapter III EXECUTION OF FINES

Jurisdiction and procedure for execution of fines Article 145

- (1) The sentencing court orders the execution of the fine.
- (2) Provisions of the applicable Law on Executive Procedure shall be applied to the jurisdiction and procedure for the execution of a fine, unless provided otherwise by this Law.

Effect of replacing fines with imprisonment Article 146

A convicted person whose fine is replaced by a term of imprisonment (Article 39, paragraph 4 of the Provisional Criminal Code) is treated as a person who serves a sentence of imprisonment for a minor offence.

Relationship between execution of fines, costs of criminal proceedings and property claims of injured parties

Article 147

- (1) When the costs of criminal proceedings and the fine are to be executed at the same time, the costs of criminal proceedings shall be executed first.
- (2) If the property of the convicted person has, due to the payment of a fine, decreased to such an extent that the property claim of the injured party cannot be realized, the property claim shall be realized from the paid fine but only to the extent of the value of the fine.

Expenses of execution of a fine Article 148

- (1) A convicted person shall pay the expenses of the forcible execution of a fine.
- (2) A paid fine shall be credited to the Kosovo Consolidated Budget.

**PART THREE
EXECUTION OF ALTERNATIVE PUNISHMENTS**

**Chapter IV
GENERAL PROVISIONS ON THE EXECUTION OF ALTERNATIVE
PUNISHMENTS**

Article 149

- (1) The execution of an alternative punishment begins after the judgment is final.
- (2) The residence of the convicted person is the place where an alternative punishment shall be executed.

Article 150

- (1) An alternative punishment shall be executed in a manner that is consistent with the dignity and basic rights and freedoms of the convicted person and his or her family.
- (2) A convicted person whose dignity or basic rights and freedoms were violated during the execution of an alternative punishment shall be entitled to compensation.

Article 151

- (1) Prior to the imposition of an alternative punishment the court may request a pre-sentence report from the Probation Service. The Probation Service shall submit the pre-sentence report to the court within three weeks of such request.
- (2) The pre-sentence report shall identify which alternative punishment or punishments would be appropriate for the convicted person in view of the objectives of rehabilitation and prevention of the commission of criminal offences in the future.

Article 152

- (1) When a court receives a Probation Service report which contains information about a violation of the conditions of an alternative punishment or a failure to perform an obligation, the court shall consider the revocation of the alternative punishment and inform the convicted person of the content of the report and shall give him or her the right to respond to the report. The convicted person shall be advised of his or her right to the assistance of defence counsel at his or her own expense.
- (2) During the period that the revocation of an alternative punishment is under consideration, the execution of the alternative punishment shall be suspended.
- (3) After reviewing the report of the Probation Service and any response received from the convicted person or his or her defence counsel, the court shall determine whether to

revoke the alternative punishment or to take other action in accordance with the Provisional Criminal Code.

(4) The court shall issue a reasoned decision in writing within thirty days of receiving the report from the Probation Service. The decision shall be sent to the convicted person, defence counsel, Probation Service and the public prosecutor.

(5) The decision may be appealed by the convicted person within eight days of receiving the decision.

Chapter V EXECUTION OF A SUSPENDED SENTENCE

Article 153

(1) When the court imposes a suspended sentence, it shall immediately send the judgment and all information in its possession to the competent Probation Service to execute this alternative punishment.

(2) If a convicted person is held in detention on remand, the court shall also send the decision to the detention facility where he or she is held. The director of the detention facility shall release the convicted person in order to execute this alternative punishment.

Article 154

(1) When the court imposes a suspended sentence and orders the performance of an obligation (Article 43, paragraph 3 of the Provisional Criminal Code), the Probation Service shall supervise the performance of the obligation.

(2) If a convicted person fails to perform an obligation ordered by the court, the Probation Service shall inform the court after verifying facts and the reasons for the failure to perform the obligation.

(3) The successful completion of the verification period shall be reported by the Probation Service to the court. Upon the receipt of such report, the court shall issue a decision stating that the alternative punishment has been served.

Chapter VI EXECUTION OF SUSPENDED SENTENCE WITH ORDER FOR MANDATORY REHABILITATION TREATMENT

Article 155

(1) A suspended sentence with an order for mandatory rehabilitation treatment shall be executed in a health care institution or another appropriate institution.

(2) When the court imposes a suspended sentence with an order for mandatory rehabilitation treatment, it shall immediately send the judgment and all information in its possession to the competent Probation Service and the competent health care institution or appropriate institution to execute this punishment.

(3) If a convicted person is held in detention on remand, the court shall also send the decision to the detention facility where he or she is held. The director of the detention facility shall release the convicted person in order to execute this alternative punishment.

Article 156

(1) The competent health care institution or appropriate institution, in cooperation with the Probation Service, shall determine the rehabilitation treatment programme for a person subject to a suspended sentence with an order for mandatory rehabilitation treatment. The Probation Service shall supervise such person's compliance with the rehabilitation treatment programme, in cooperation with the competent health care institution or appropriate institution.

(2) Every four months, the Probation Service shall send reports to the court on the progress of the rehabilitation treatment programme based on information provided by the competent health care institution or other appropriate institution.

(3) The competent health care institution or other appropriate institution shall immediately inform the Probation Service if the convicted person fails to comply with the rehabilitation treatment programme. Failure by the convicted person to comply with the rehabilitation treatment programme shall be assessed by the Probation Service and reported to the court.

(4) The successful completion of the rehabilitation treatment programme shall be reported by the Probation Service to the court. Upon the receipt of such report, the court shall issue a decision stating that the alternative punishment has been served.

Chapter VII

EXECUTION OF SUSPENDED SENTENCE WITH ORDER FOR SUPERVISION BY THE PROBATION SERVICE

Article 157

(1) When the court imposes a suspended sentence with an order for supervision by the Probation Service (Article 50 of the Provisional Criminal Code), it shall immediately send the judgment and all information in its possession to the competent Probation Service to execute this alternative punishment.

(2) If a convicted person is held in detention on remand, the court shall also send the decision to the detention facility where he or she is held. The director of the detention facility shall release the convicted person in order to execute this alternative punishment.

Article 158

- (1) The Probation Service shall supervise the execution of a suspended sentence with an order for supervision by the Probation Service.
- (2) If a convicted person fails to maintain contact with the Probation Service, the Probation Service shall inform the court after verifying facts and the reasons for the failure to maintain contact.

Article 159

- (1) When the court imposes a suspended sentence with an order for supervision by the Probation Service and orders the performance of an obligation (Article 43, paragraph 3 or Article 51 of the Provisional Criminal Code), the Probation Service shall supervise the performance of the obligation.
- (2) If a convicted person fails to perform an obligation ordered by the court, the Probation Service shall inform the court after verifying facts and the reasons for the failure to perform the obligation.

Article 160

The successful completion of the verification period shall be reported by the Probation Service to the court. Upon the receipt of such report, the court shall issue a decision stating that the alternative punishment has been served.

Chapter VIII

EXECUTION OF SUSPENDED SENTENCE WITH ORDER FOR COMMUNITY SERVICE WORK

Article 161

- (1) When the court imposes a suspended sentence with an order for community service work (Article 52 of the Provisional Criminal Code), it shall immediately send the judgment and all information in its possession to the competent Probation Service to execute this alternative punishment.
- (2) If a convicted person is held in detention on remand, the court shall also send the decision to the detention facility where he or she is held. The director of the detention facility shall release the convicted person in order to execute this alternative punishment.

Article 162

- (1) The Probation Service shall develop a programme for community service work for a convicted person, in accordance with Article 52, paragraph 2 of the Provisional Criminal Code and with his or her abilities, skills and background.

(2) The Probation Service shall supervise the execution of a suspended sentence with an order for community service work.

(3) The Probation Service will, in coordination with the organization where the community service work is to be performed, develop rules for insurance for workplace injury or illness, general behaviour in the workplace and other relevant matters prior to the commencement of community service work. The general rules relating to working hours, breaks, weekly rests and workplace safety shall apply to the performance of community service work.

Article 163

(1) When the court imposes a suspended sentence with an order for community service work and orders the convicted person to maintain contact with the Probation Service or to perform one or more of the obligations provided for in Article 43, paragraph 3 or Article 51 of the Provisional Criminal Code, the Probation Service shall supervise the maintenance of contact or the performance of the obligation.

(2) If a convicted person fails to maintain contact with the Probation Service or to perform an obligation ordered by the court, the Probation Service shall inform the court after verifying facts and the reasons for the failure to maintain contact or to perform the obligation.

Article 164

(1) The organization where the community service work is to be performed shall immediately inform the Probation Service if the convicted person fails to perform the community service work satisfactorily. Failure to perform the community service work satisfactorily shall be assessed by the Probation Service and reported to the court.

(2) Failure to perform the community service work satisfactorily includes late arrival to work; unauthorized absence from work; failure to comply with work rules and regulation disobedience.

Article 165

(1) If a convicted person is unable to perform the community service work due to changed circumstances, the Probation Service may revise the programme for community service work.

(2) The execution of an order for community service work ordered with a suspended sentence may be stayed or suspended due to:

1) The sudden illness of the convicted person, which requires him or her to obtain medical treatment and prevents him or her from performing community service work;

2) The death of a family member, which requires him or her to act as the primary caregiver to other family members and prevents him or her from performing community service work; or

3) Any other extraordinary circumstances which requires the constant presence of the convicted person for humanitarian reasons and prevents him or her from performing community service work.

(3) A request to stay or suspend the execution of an order for community service work ordered with a suspended sentence may be submitted to the court by the convicted person, defence counsel or a representative from the Probation Service. The submission of the request suspends the obligation to perform community service work until the court has issued a decision on the request.

(4) The court shall issue a decision on the stay or suspension of the execution of an order for community service work ordered with a suspended sentence within three days of receiving the request. If the court approves a stay or suspension of the execution of the order for community service work, the decision shall specify the period of the stay or suspension.

(5) The stay or suspension of the execution of an order for community service work ordered with a suspended sentence may last:

1) Until the end of the illness, in cases under subparagraph 1 of paragraph 2 of the present Article; and

2) For up to 20 days, in cases under subparagraphs 2 and 3 of paragraph 2 of the present Article.

(6) A decision to stay or suspend the execution of an order for community service work ordered with a suspended sentence shall not result in the revocation of the suspended sentence.

Article 166

The successful completion of the community service work shall be reported by the Probation Service to the court. Upon the receipt of such report, the court shall issue a decision stating that the alternative punishment has been served.

Chapter IX EXECUTION OF IMPRISONMENT IN SEMI-LIBERTY

Article 167

(1) When the court imposes a punishment of imprisonment and orders the execution of the punishment in semi-liberty, it shall immediately send the judgment and all information in its possession to the competent Probation Service and the correctional facility to execute this alternative punishment.

(2) The Correctional Service authorities shall determine the correctional facility where the order for semi-liberty is to be executed, taking into account the place of work or other obligations and responsibilities of the convicted person and other operational factors.

Article 168

(1) The director of the correctional facility shall supervise the convicted person while he or she is imprisoned and the competent Probation Service shall supervise the convicted person while he or she is at liberty.

(2) If a convicted person fails to return to the correctional facility after performing his or her obligations, the director of the correctional facility shall inform the court after verifying facts and the reasons for the failure to return to the correctional facility.

(3) If a convicted person fails to perform his or her obligations related to work, education or vocational training, family responsibilities or medical treatment or rehabilitation, the Probation Service shall inform the court after verifying facts and the reasons for the failure to perform such obligations.

PART FOUR EXECUTION OF ACCESSORY PUNISHMENTS

Chapter X DEPRIVATION OF THE RIGHT TO BE ELECTED

Article 169

(1) When the court issues a decision to deprive a perpetrator of the right to be elected (Article 55 of the Provisional Criminal Code), it shall immediately send the judgment and all information in its possession to the police station in the territory where the convicted person has his or her permanent residence to execute this accessory punishment.

(2) The administrative unit of the police station shall inform the Central Election Committee of Kosovo and the Local Election Committee where the convicted person has his or her permanent residence that the convicted person has been deprived of the right to be elected by a final decision of the court.

(3) If the convicted person changes his or her permanent residence, he or she shall inform the court and the police about the new permanent residence. The police station in the territory where the convicted person had his or her former permanent residence shall inform the police station where the convicted person has his or her new permanent residence.

Chapter XI
PROHIBITION ON EXERCISING PUBLIC ADMINISTRATION OR PUBLIC SERVICE FUNCTIONS

Article 170

(1) When the court issues a decision to prohibit a perpetrator from exercising public administration or public service functions (Article 56 of the Provisional Criminal Code), it shall immediately send the judgment and all information in its possession to the Ministry of Public Services to execute this accessory punishment.

(2) If the convicted person fails to comply with the prohibition on exercising public administration or public service functions, the Ministry of Public Services shall inform the court of the failure to comply with the prohibition.

Chapter XII
PROHIBITION ON EXERCISING PROFESSION, ACTIVITY OR DUTY

Article 171

When the court issues a decision to prohibit a perpetrator from exercising a profession, an independent activity, management duties or administrative duties (Article 57 of the Provisional Criminal Code), it shall immediately send the judgment and all information in its possession to the public or private enterprise where the convicted person has been employed, to the body authorized to issue a license for practicing a profession or activity and to the Ministry of Labour and Social Welfare to execute this accessory punishment.

Article 172

(1) When a prerequisite for exercising a profession, activity or a duty is a license issued by an authorized body, this accessory punishment shall be executed by revoking the license or by prohibiting the issuance of the license during the time when the accessory punishment is in force.

(2) In other cases, the Ministry of Labour and Social Welfare shall undertake appropriate actions to prevent the convicted person from exercising a profession, activity or duty.

(3) The public or private enterprise, the authorized body or the Ministry of Labour and Social Welfare shall inform the court which imposed the accessory punishment when such punishment has been executed.

Article 173

If the convicted person fails to comply with the prohibition on exercising a profession, activity or duty, the public or private enterprise, the authorized body or the Ministry of Labour and Social Welfare shall inform the court of the failure to comply with the prohibition.

Chapter XIII
PROHIBITION ON DRIVING MOTOR VEHICLES

Article 174

- (1) When the court issues a decision to prohibit a perpetrator from driving a motor vehicle (Article 58 of the Provisional Criminal Code), it shall immediately send the judgment and all information in its possession to the competent public entity authorized to issue drivers' licenses in the territory where the convicted person has his or her permanent residence to execute this accessory punishment.
- (2) If the permanent residence of the convicted person cannot be identified, the competent public entity authorized to issue drivers' licenses in the territory where the convicted person has his or her temporary residence shall execute the accessory punishment.
- (3) If the convicted person does not have a permanent residence in Kosovo, the judgment shall be sent to the competent public entity authorized to issue drivers' licenses in the territory where the criminal offence was committed.

Article 175

- (1) The competent public entity authorized to issue drivers' licenses shall execute this punishment by summoning the convicted person and writing on his or her driver's license that it is invalid during the execution of this accessory punishment for the specific kind and category of the motor vehicle.
- (2) If the convicted person does not have a driver's license or has a driver's license issued by a foreign authority, this accessory punishment shall be executed by recording the punishment in the register of competent public entity authorized to issue drivers' licenses. The competent public entity shall register the data on the convicted person, the imposed accessory punishment and its duration.
- (3) When the term of this accessory punishment has been completed, the convicted person may apply for a new driver's license with the competent public entity authorized to issue drivers' licenses.

Article 176

If the convicted person fails to comply with the prohibition on driving a motor vehicle, the competent public entity authorized to issue drivers' licenses shall inform the court of the failure to comply with the prohibition.

Chapter XIV
CONFISCATION OF DRIVER'S LICENSE

Article 177

- (1) When the court issues a decision to confiscate a driver's license (Article 59 of the Provisional Criminal Code), it shall immediately send the judgment and all information in its possession to the police station in the territory where the convicted person has his or her permanent residence to execute this accessory punishment.
- (2) If the permanent residence of the convicted person cannot be identified, the police station in the territory where the convicted person has his or her temporary residence shall execute the accessory punishment.

Article 178

- (1) If the convicted person is in possession of a driver's license, the police shall execute this accessory punishment by summoning the convicted person and confiscating the driver's license for the duration of the punishment.
- (2) If the convicted person is not in possession of a driver's license, this accessory punishment shall be executed by recording the punishment in the register of the administrative body which is competent for issuing drivers' licenses. The administrative body shall register the data on the convicted person, the imposed accessory punishment and its duration.
- (3) The execution of this accessory punishment commences on the date of the confiscation of the driver's license or of the recording of the punishment in the register of the administrative body which is competent for issuing drivers licenses.

Chapter XV
CONFISCATION OF OBJECTS

Article 179

- (1) The accessory punishment of confiscation of objects (Article 60 of the Provisional Criminal Code) shall be executed by the court which has imposed the punishment at first instance.
- (2) The court shall determine whether to sell the confiscated object or deliver it to a public entity a museum of criminology or other appropriate institution or to destroy it.
- (3) Proceeds from the sale of confiscated objects shall be deposited in the Kosovo Consolidated Budget.

Chapter XVI
ORDER TO PUBLISH JUDGMENTS

Article 180

When the court orders the publication of a judgment (Article 61 of the Provisional Criminal Code), it shall immediately send the judgment, in part or in whole, for publication in one or more newspapers or broadcasting on a radio or television channel

Chapter XVII
EXPULSION OF FOREIGNERS FROM THE TERRITORY OF KOSOVO

Article 181

When the court issues a decision to expel a foreigner from the territory of Kosovo (Article 62 of the Provisional Criminal Code), it shall immediately send the judgment and all information in its possession to the police station in the territory where the convicted person has his or her temporary residence to execute this accessory punishment.

PART FIVE
EXECUTION OF MANDATORY REHABILITATION TREATMENT

Chapter XVIII
EXECUTION OF MANDATORY REHABILITATION TREATMENT

Article 182

- (1) A measure of mandatory rehabilitation treatment of perpetrators addicted to drugs or alcohol shall be executed in a health care institution or another appropriate institution. If the measure is imposed in addition to a punishment of imprisonment, the measure shall be served in a correctional facility for the execution of a sentence of imprisonment.
- (2) The court shall decide on the health care institution, the correctional facility or other appropriate institution where the measure of mandatory treatment is to be executed.
- (3) When the court imposes a measure of mandatory rehabilitation treatment, it shall immediately send the decision and all information in its possession to the competent Probation Service and the competent health care institution, the correctional facility or appropriate institution to execute this measure.
- (4) If a convicted person is held in detention on remand, the court shall also send the decision to the detention facility where he or she is held. The director of the detention facility shall release the convicted person in order to execute this measure.

Article 183

- (1) The competent health care institution, the correctional facility or appropriate institution, in cooperation with the Probation Service, shall determine the rehabilitation treatment program for a person subject to a measure of mandatory rehabilitation treatment. The Probation Service shall supervise such person's compliance with the rehabilitation treatment program, in cooperation with the competent health care institution, the correctional facility or appropriate institution.
- (2) Every two months, the Probation Service shall send a report to the court on the progress of the rehabilitation treatment program based on information provided by the competent health care institution, the correctional facility or other appropriate institution.
- (3) The competent health care institution, the correctional facility or appropriate institution shall immediately inform the Probation Service if the convicted person fails to comply with the rehabilitation treatment program. Failure by the convicted person to comply with the rehabilitation treatment program shall be assessed by the Probation Service and reported to the court.
- (4) The successful completion of the rehabilitation treatment program shall be reported by the Probation Service to the court. Upon the receipt of such report, the court shall issue a decision stating that the measure has been served.

PART SIX

KOSOVO CORRECTIONAL SERVICE AND PROBATION SERVICE

Chapter XIX

KOSOVO CORRECTIONAL SERVICE

Activities of Kosovo Correctional Service

Article 184

The Kosovo Correctional Service shall be responsible for

- 1) Organizing, applying and supervising the execution imprisonment and long-term imprisonment;
 - 2) Organizing, applying and supervising the juvenile imprisonment and educational measures, unless otherwise provided for in the Juvenile Justice Code; and
 - 3) Organizing programmes that contribute to the rehabilitation, preparation for release and long-term supervision of persons sentenced to imprisonment and long-term imprisonment.
- (2) The Kosovo Correctional Service shall keep uniform records on persons against whom institutional sanctions are executed.

I. Organization of Kosovo Correctional Service

Kinds of correctional facilities

Article 185

The kinds of correctional facilities are:

- 1) Prisons, for the execution of long-term imprisonment and imprisonment;
- 2) Detention centres, for the execution of detention on remand and the execution of sentences of imprisonment up to three months;
- 3) Prisons for women, for the execution of long-term imprisonment, and imprisonment and juvenile imprisonment imposed on women;
- 4) Prisons for minors, for the execution of juvenile imprisonment;
- 5) Educational-correctional institutions, for the execution of the educational measure of committal of a minor offender to an educational-correctional institution;
- 6) Prison hospitals, for the treatment of detainees on remand and convicted persons.

Types of correctional facilities

Article 186

- (1) According to the level of security and the nature of the treatment of the convicted persons correctional facilities may be of the confined, semi-confined and open type.
- (2) In confined correctional facilities, there are elements of physical and material security such as armed guards, surrounding walls or surrounding wires, technical devices and other security measures which constitute impediments to the escape of convicted persons.
- (3) In semi-confined correctional facilities, there are no elements of physical security in the form of the supervision of the movement and work of the convicted persons, but there are elements of material security which would constitute impediments to the escape of convicted persons.
- (4) In open correctional facilities there are no elements of material nor physical security which would constitute impediments to the escape of convicted persons. Conduct towards the convicted persons is based on their self-discipline and personal responsibility and the correctional staff supervise the movement and work of the convicted persons.
- (5) At least one-third of long-term imprisonment shall be served in correctional facilities of the confined type.

Article 187

Within a correctional facility there can be open, semi-confined and confined units.

Establishment of correctional facilities**Article 188**

The competent public entity in the field of judicial affairs shall issue a directive on the establishment of correctional facilities and the classification of the types of correctional facilities.

Commissioner of the Kosovo Correctional Service**Article 189**

- (1) The competent public entity in the field of judicial affairs shall appoint the Commissioner of the Kosovo Correctional Service who, under the direction of the competent public entity in the field of judicial affairs, controls and manages the Kosovo Correctional Service and all matters connected with the Kosovo Correctional Service. The Commissioner shall be appointed for a period to be determined by the competent public entity in the field of judicial affairs.
- (2) The Headquarters of the Kosovo Correctional Service and the offices of the Commissioner shall be at a location to be determined by the competent public entity in the field of judicial affairs.
- (3) The Commissioner shall have the authority to designate regional offices.

II. Staff of Kosovo Correctional Service**Article 190**

Staff of the Kosovo Correctional Service are civil servants for the purposes of UNMIK Regulation No. 2001/36 of 22 December 2001 on the Kosovo Civil Service and UNMIK Administrative Direction 2003/2 of 25 January 2003 Implementing UNMIK Regulation No. 2001/36 on the Kosovo Civil Service.

Article 191

- (1) The competent public entity in the field of judicial affairs shall determine the qualifications for appointment and promotion, subject to UNMIK Regulation No. 2001/36 of 22 December 2001 on the Kosovo Civil Service and UNMIK Administrative Direction 2003/2 of 25 January 2003 Implementing UNMIK Regulation No. 2001/36 on the Kosovo Civil Service.

(2) The competent public entity in the field of judicial affairs shall issue a directive on standards, a professional code of conduct and a code of discipline for the staff of the Kosovo Correctional Service.

III. Publicity of work of Kosovo Correctional Service

Article 192

(1) The competent public entity in the field of judicial affairs shall improve the public's awareness and understanding of policies and operations in regard to the Kosovo Correctional Service and correctional facilities through the dissemination of information especially through the media.

(2) The competent public entity in the field of judicial affairs shall appoint a person or persons as spokesperson or spokespersons for the Kosovo Correctional Service.

(3) All information concerning convicted persons and detainees on remand is confidential and shall not be disclosed or shared with the public or media.

(4) Exceptionally, the competent public entity in the field of judicial affairs may disclose confidential information to the media or other public information groups if the release of such information is in compliance with the overall social interest. Such confidential information shall not be disclosed if disclosure would be dangerous for the overall security and order of the correctional facilities or when the release of such information could harm the aim of the sentence.

(5) Convicted persons shall not be interviewed by the media, local public groups or other individuals without prior informed consent.

(6) The competent public entity in the field of judicial affairs shall issue a directive on the confidentiality of information, information sharing and disclosure and media guidelines.

(7) The provisions of the present Article are without prejudice to the powers of access that the Ombudsperson of Kosovo, judges and other judicial officials may have under the applicable law to confidential documents, files and information.

Article 193

The competent public entity in the field of judicial affairs has the authority to approve visits by individuals or groups to correctional facilities.

Chapter XX
SERVICE FOR THE EXECUTION OF ALTERNATIVE PUNISHMENTS AND THE
SOCIAL REINTEGRATION OF CONVICTED PERSONS

Article 194

(1) The Service for the Execution of Alternative Punishments and the Social Reintegration of Convicted Persons (the Probation Service) is under the authority and the responsibility of the competent public entity in the field of judicial affairs.

(2) The Probation Service shall be responsible for:

- 1) Preparing social inquiries on minor offenders;
 - 2) Supervising and assisting convicted persons serving alternative punishments;
 - 3) Supervising and assisting perpetrators addicted to drugs or alcohol subject to mandatory rehabilitation treatment which is executed in liberty;
 - 4) Supervising and assisting convicted persons granted conditional release;
 - 5) Guiding and supporting convicted persons on the completion of their sentence;
- and
- 6) Any other task as defined by the competent public entity in the field of judicial affairs.

Chapter XXI
ESTABLISHMENT OF A SYSTEM OF AUDIT AND COMPLIANCE

Internal Inspection of Correctional Facilities

Article 195

(1) The competent public entity in the field of judicial affairs shall conduct an internal inspection of correctional facilities to promote their economical and efficient operation and to ensure that the objectives, policies and principles of this Law are met.

(2) Such inspection shall assess annually each correctional facility by:

- 1) Determining whether the operations are conducted effectively, in particular in regard to procedures for admission, the use of disciplinary punishments, security matters, the provision of health and medical services and the provision of education and social assistance;
- 2) Review of the reliability of financial and management information;
- 3) Ascertaining whether the assets belonging to the Kosovo Correctional Service are controlled and safeguarded from losses, in particular the maintenance and cleanliness of the premises;

- 4) Assessing the effective utilization of human resources; and
 - 5) Monitoring whether established objectives for programmes have been achieved.
- (3) The competent public entity in the field of judicial affairs may issue directives on the rules and mechanisms for the internal inspection of correctional facilities.

**PART SEVEN
TRANSITIONAL AND FINAL PROVISIONS**

**Chapter XXII
TRANSITIONAL AND FINAL PROVISIONS**

Article 196

- (1) The competent public entity in the field of judicial affairs shall issue the necessary directives for the implementation of this Law within six months of the entry into force of this Law.
- (2) The rules on internal order of each correctional facility shall be approved by the competent public entity in the field of judicial affairs within six months of the entry into force of this Law.
- (3) Existing directives and rules shall remain in force until issuance of the directives and rules to implement the present Law.

Article 197

The execution of sentences initiated before the date of entry into force of this Law but which have not been completed by this date shall be continued and finished according to the provisions of the present Law, unless the provisions of the previous applicable law are more beneficial to the convicted person.

Article 198

Upon the entry into force of this Law, if any prescribed period of time is running, such period shall be counted pursuant to the provisions of this Law, except if the previous period of time was longer or the provisions of the present Chapter provide otherwise.

Article 199

This Law shall supersede any provision of the applicable law which is inconsistent with it, except where the provisions of the present Chapter provides otherwise.

Article 200

The Special Representative of the Secretary-General may issue Administrative Directions for the implementation of the present Law.