

## Republic of Macedonia

### Criminal Code

(consolidated version with the amendments from March 2004, June 2006, January 2008 and September 2009)

Came into effect: 1 November 1996

#### CRIMINAL CODE

#### GENERAL PART

### 1. GENERAL PROVISIONS

#### Legality in the determining of crimes and the prescribing of criminal sanctions

##### Article 1

Nobody can be sentenced to a punishment or some other penal sanction for an act, which before it was committed, was not determined by law to be a crime and for which no punishment was prescribed by law.

#### Fundaments and limits of criminal-legal coercion

##### Article 2

The protection of human freedoms and rights and of other basic values, and the implementation of criminal legal coercion, when this is within an extent that is necessary to prevent socially damaging activities, represent the fundament and limit for determining the crimes and the prescription of criminal sanctions.

#### Obligatory implementation of a more lenient criminal law

##### Article 3

- (1) The law that was applicable at the time when a crime was committed shall be applied upon the person who has committed the crime.
- (2) If the law has changed once or several times after the crime was committed, that law shall be applied which is more lenient towards the offender.
- (3) If this law prescribes a new alternative measure, a safety measure or an educational measure, it can be applied only if it corresponds to a previously prescribed measure and if it is not more harmful to the perpetrator.

#### Criminal sanction

##### Article 4

Criminal sanctions are: punishments, alternative measures, security measures and educational measures.

#### Limitations in the execution of criminal sanctions

##### Article 5

An offender can be deprived or limited in certain rights in the execution of a criminal sanction only to the extent which corresponds to the nature and contents of this sanction, and only in a manner that provides respect of the offender's personality and his human dignity.

#### Applicability of the General Part

##### Article 6

The provisions from the General Part of this Code are applicable to all crimes determined by the laws of the Republic of Macedonia.

#### Enforcement of the Criminal Code for minors and young adults

##### Article 6-a

- (1) This Code shall not apply for a minor, who during the time of committing the crime, which according to the law is a criminal act, has not turned fourteen years of age.
- (2) The provisions of this Code, if otherwise not determined by other law, shall apply for minors and young adults as perpetrators of criminal acts determined by law or by international agreements ratified in accordance with the Constitution of the Republic of Macedonia.

### 2. A CRIME AND CRIMINAL RESPONSIBILITY

#### 2.1. General provisions on crime and criminal responsibility

## **Crime**

### **Article 7**

A crime is an unlawful act which is determined by law to be a crime, and whose characteristics are determined by law.

### **An act of minor significance**

#### **Article 8**

(1) An act is not a crime even though it contains characteristics of a crime, when it is an act of minor significance, because of the lack or insignificance of the damaging consequences and the low level of criminal responsibility of the offender.

(2) The provision from paragraph 1 may be applied to a crime for which the law prescribes a fine or an imprisonment sentence of up to three years.

### **Self-defense**

#### **Article 9**

(1) An act is not a crime if it was committed in self-defense.

(2) Self-defense is that defense, which is necessary for the offender to avert a simultaneous unlawful attack upon himself or upon another.

(3) The offender who has exceeded the limits of self-defense may be punished more leniently, and if the exceeding was done because of a strong irritation or fear caused by the attack, he may be acquitted from punishment.

### **Extreme necessity**

#### **Article 10**

(1) An act is not a crime, which was committed in extreme necessity.

(2) Extreme necessity exists when the crime was committed in order for the offender to avert from himself or from another a simultaneous obvious danger, which could not be averted in some other way, and hereby the perpetrated evil is not larger than the evil that had threatened.

(3) An offender who himself caused danger by negligence, or who has exceeded the limits of extreme necessity, may be punished more leniently, and if the exceeding was committed under especially alleviating circumstances - he can even be acquitted from punishment.

(4) Extreme necessity does not exist if the offender was obliged to expose himself to danger.

### **Criminal responsibility**

#### **Article 11**

(1) An offender bears criminal responsibility if he is mentally competent and if he has committed the crime with intent or out of negligence and was aware, or was obliged and could have been aware that the activity has been prohibited.

(2) The offender bears criminal responsibility for a crime committed out of negligence only when this is so determined by the law.

### **Mental competence**

#### **Article 12**

(1) The offender is mentally incompetent if at the time when he performed the crime he could not understand the significance of his act or if he could not control his actions because of a permanent or temporary mental illness, temporary mental disorder or retarded mental development, or other especially severe mental impediments (mental incompetence).

(2) The perpetrator of a crime whose ability to understand the significance of his action and the ability to control his actions was significantly decreased because of some situation from item 1, may be punished more leniently (significantly decreased mental competence).

(3) The perpetrator of a crime bears responsibility if with the use of alcohol, drugs or in some other manner, he brings himself into a situation when he could not understand the significance of his act or control his actions, if before he brought himself into such a situation the act was present in his intent, or in relation to the crime he was negligent, and the law prescribes for such an act criminal responsibility also for negligence.

### **Intent**

#### **Article 13**

A crime was committed with intent when the offender was aware about his act and he wanted it to be committed; or when he was aware that because of his act or omission, there could be a damaging consequence, but he agreed for it to happen.

## **Negligence**

### **Article 14**

A crime is committed out of negligence when the offender was aware that because of his act or omission, a damaging consequence could happen, but lightheartedly he thought he could prevent it or that it would not happen; or when he was not aware of a possible damaging consequence, even though according to the circumstances and according to his personal features he was obliged to be and he could be aware of this possibility.

### **Responsibility for a more severe consequence**

#### **Article 15**

When the result of a crime was a more severe consequence, for which the law prescribes a more serious punishment, this punishment may be pronounced if the offender acted out of negligence in relation to this consequence.

## **Real mistake**

### **Article 16**

- (1) The offender is not criminally responsible, when at the time the crime was committed, he had no knowledge of some of its characteristics, determined by law; or if he wrongly considered that there are circumstances according to which, if they had existed, this would have been permissible.
- (2) If the offender was under mistaken notion out of negligence, he is criminally responsible for the crime committed out of negligence, if the law determines a criminal responsibility for such an act.

## **Mistake of law**

### **Article 17**

- (1) The perpetrator of a crime is not criminally responsible for an act if for justified reasons he did not know and he could not have known that this act is prohibited.
- (2) If the offender could have known that this act is prohibited, he may be punished more leniently.

## **2.2. Preparation and attempt of a crime**

### **Preparation**

#### **Article 18**

- (1) A person intentionally preparing a crime shall be punished only when this is explicitly so determined by law.
- (2) The preparation of a crime may be determined by law as a special crime, or it may be prescribed by law that the preparation of a certain crime is punishable.
- (3) When the law prescribes punishment for the preparation of a certain crime, the preparation may consist of procurement or adaptation of means for the perpetration of a crime; of removing hindrances for committing the crime; of making agreements, planning or organizing together with other perpetrators of a crime; as well as of other activities with which conditions are created for direct perpetration of the crime, and which do not represent an action of perpetration.

## **Attempt**

### **Article 19**

- (1) A person that intentionally starts the perpetration of a crime, but who does not complete it, shall be punished for an attempted crime for which according to the law a sentence could be pronounced of five years of imprisonment or a more severe punishment, and for the attempt of some other crime only when the law explicitly prescribes the punishment of an attempt.
- (2) The offender shall be punished for an attempt within the limits of the punishment prescribed for the crime, and he may be punished more leniently.

## **Unsuitable attempt**

### **Article 20**

The offender who attempts to perpetrate a crime with unsuitable means or towards and unsuitable object may be acquitted from punishment.

## **Voluntary calling off**

### **Article 21**

- (1) An offender who was preparing or who attempted to commit a crime, but who voluntarily called off its perpetration may be acquitted from punishment.
- (2) The perpetrator has given up the preparation of the activity when he\she has ceased any further preparations or has stopped or seriously tried to stop the commencement of the performance of the criminal activity.
- (3) In case of voluntary calling off, the offender shall be punished for those activities that represent some other independent crime.

### **2.3. Accessory in crime**

#### **Joint perpetration**

##### **Article 22**

If two or several persons, by participation in an act of perpetration or with any other significant contribution towards the performance of the crime, commit jointly a crime, each one of them shall be punished with the punishment that is prescribed for that crime.

#### **Instigation**

##### **Article 23**

- (1) A person that instigates, with intent, another to committing a crime, shall be punished as if he had perpetrated the crime himself.
- (2) A person that instigates, with intent, another to commit a crime, for which a sentence of five years of imprisonment or a more severe sentence could be pronounced, and there is not even an attempt of this crime, shall be punished as for an attempted crime.

#### **Accessory**

##### **Article 24**

- (1) A person who with intent assists in the perpetration of a crime, shall be punished as if he had committed the crime himself, and he may be punished more leniently.
- (2) As accessory to perpetrating a crime shall be considered especially: giving advice or instructions how to commit the crime; making available to the offender means for committing the crime; removal of hindrances for perpetrating the crime; as well as giving promise in advance for covering up the crime, the offender, the means with which the crime was perpetrated, the traces of the crimes or the objects obtained through the crime.

### **Limits of criminal responsibility and possibility of punishing the accomplices**

##### **Article 25**

- (1) The joint offender is criminally responsible within the limits of his intent or negligence, and the instigator and accessory - within the limits of their intent.
- (2) The joint offender, instigator or accessory that voluntarily prevented the perpetration of a crime may be acquitted from punishment. This is also applicable in the case of preparation of a crime, regardless whether it is determined by law as a special crime, or whether the law prescribes as punishable the preparation of a certain crime (article 8 item 2).
- (3) Personal relations, characteristics and circumstances because of which the law excludes criminal responsibility, or it permits acquittal from punishment, a more lenient or a more severe punishment, may be taken into consideration only for that offender, joint offender, instigator or accessory where such relations, characteristics and circumstances exist.

### **2.4. Special provisions on criminal responsibility for crimes perpetrated through the public media**

#### **Criminal responsibility of the Chief Editor**

##### **Article 26**

- (1) The Chief Editor, respectively the person substituting for him at the time when the information was published, is criminally responsible for crimes committed through a newspaper or some other periodical publication, through radio, television or through film news, if:
  - 1) the author remained unknown until the conclusion of the main hearing before the court of first instance;
  - 2) the information was published without consent from the author;
  - 3) at the time of publication of the information actual or legal hindrances existed for the persecution of the author, which continue to last.
- (2) The Chief Editor, respectively the person substituting for him, is not criminally responsible if for justified reasons he did not know about one of the circumstances listed in points 1, 2 and 3 of item 1.

#### **Criminal responsibility of the publisher, printer and producer**

##### **Article 27**

- (1) When the circumstances from article 26 exist, criminal responsibility is born by:

- 1) the publisher - for a crime committed through a non-periodically printed publication, and if there is no publisher or if actual or legal hindrances exist for his persecution - by the printer who knew about it;
- 2) the producer - for a crime committed through a record, a tape, a film for private or public presentation, slides, phonograms, video and audio means or similar communication means intended for a wider circle of people.

(2) If the publisher, printer or producer is a legal entity or a state agency, criminal responsibility is born by the person responsible for the publication, printing or production.

### **Criminal accountability of the importer and the distributor of the mean for public information**

#### **Article 27-a**

(1) If the crime has been committed within a mean of public information which is issued, printed, produced or broadcasted abroad, and is distributed within the country under the terms of article 26, the importer or the distributor of that material shall be criminally accountable.

(2) If the importer or the distributor is a legal entity or a state authority, the responsible official within the legal entity or the state authority shall be criminally accountable.

### **Application of the general provisions on criminal responsibility**

#### **Article 28**

The provisions on criminal responsibility for the persons listed in articles 26, 27 and 27-a shall apply only if these persons are not criminally responsible according to the general provisions for criminal responsibility in this Code.

### **5. Criminal accountability of a legal entity Conditions for criminal accountability of a legal entity**

#### **Article 28-a**

In cases as prescribed by law, the legal entity is liable for the criminal act committed by the responsible person of the legal entity, on behalf, on the account or for the benefit of the legal entity.

(2) The legal entity is also liable for a criminal act which is committed by its employee or representative of the legal entity that resulted in significant benefit in assets or resulted in damages for someone else, if:

- 1) the execution of a conclusion, order or any other decision or approval by administrative body, management body or supervisory body, means perpetration of a criminal act; or
- 2) the crime was committed due to omission of obligatory supervision by the administrative body, management body or supervisory body; or
- 3) the administrative body, management body or supervisory body failed to prevent the criminal act or concealed it or failed to report the crime before the initiation of criminal proceeding against the perpetrator.

(3) Under the terms specified in paragraphs (1) and (2) of this article, all legal entities are liable, with the exception of the State.

(4) The Self-Government units are liable only for acts committed outside their public competences.

(4) Under the conditions specified in paragraphs (1) and (2) of this article, a foreign legal entity is criminally liable, if the act has been committed within the territory of the Republic of Macedonia, regardless whether there is a representative office or subsidiary of the legal entity that operates within the territory of the country.

### **Limitations of legal entity's liability**

#### **Article 28-b**

(1) The liability of the legal entity does not exclude the criminal liability of a physical person as perpetrator of the criminal act.

(2) Under the conditions specified in Article 28-a, paragraphs (1) and (2) thereof, the legal entity is also liable for a criminal act in case when there are actual or legal obstacles to determine the criminal liability of the physical person as perpetrator of the crime.

(3) If the criminal act has been committed due to negligence, the legal entity is liable under the conditions specified in Article 28-a of this law if the law provides punishment for a crime committed due to negligence (Article 11, paragraph 2).

### **Liability in case of bankruptcy and change of status of the legal entity**

#### **Article 28-c**

(1) The legal entity that has bankrupted shall be liable for a crime committed before the decision was passed for instigation of bankruptcy procedure, under the conditions specified in Article 28-a of this law, if the legal entity gained significant benefit in assets or caused

significant damage to someone else by committing the crime.

(2) If before completion of the criminal proceeding against the legal entity, there is no association, merging, division or any other status change pursuant to law due to which the legal entity no longer retains the status of a legal entity, the criminal proceeding shall continue against its legal successor or successors.

2.6. Manner, time and place of perpetration of a crime

### **Manner of perpetration of a crime**

#### **Article 29**

(1) A crime can be perpetrated by act or omission.

(2) A crime can be perpetrated by omission only when the offender omitted the act that he was legally bound to commit, and the omission has equal significance as causing the consequence of the crime by act.

### **Time of perpetration of a crime**

#### **Article 30**

The crime was perpetrated at the time when the offender acted, or was obliged to act, regardless when the consequence appeared.

### **Place of perpetration of a crime**

#### **Article 31**

(1) The crime was perpetrated both at the place where the offender acted or was obliged to act, as well as at the place where the consequence appeared.

(2) The preparation and the attempt of a crime are considered to be perpetrated both at the place where the offender acted, as well as at the place where according to his intent the consequence should have or could have appeared.

(3) The activity of the accomplice has been committed at the location where the activity was transferred to the perpetrator, as well as at the place where the accomplice has worked or was obligated to work.

## **3. PUNISHMENTS**

### **3.1. The aim of punishment, the types of punishments and conditions for pronouncing them**

#### **The aim of punishment**

#### **Article 32**

Besides the realization of justice, the aim of punishment is:

(1) to prevent the offender from committing crimes and his correction;

(2) educational influence upon others, as not to perform crimes.

#### **Types of punishments**

#### **Article 33**

(1) The criminally accountable persons can be sentenced as follows for the crimes they have committed:

1) imprisonment

2) fine

3) a ban from performing their profession, activity or duty;

4) eviction of a foreigner from the country

(2) The sentence of imprisonment may be applied only as the main sentence.

(3) The fine may be applied as a main sentence or as a secondary sentence together with the imprisonment sentence or with the probation sentence with a predetermined imprisonment sentence.

(4) If for a crime the law prescribes an imprisonment sentence or a fine, only of them may be applied as the main sentence, unless the law stipulates that both sentences may be applied.

(5) In addition to the main sentence, one or more secondary sentences may be applied, in compliance with the conditions of applying sentences, stipulated in the law. The law may stipulate that it is obligatory to apply a secondary sentence

(6) The sentence involving a ban for performing the profession, activity or duty, may be applied only as a secondary sentence in addition to the imprisonment sentence or a probation sentence with a predetermined imprisonment sentence.

(7) The sentences related to bans from driving a motor vehicle and eviction of foreign persons from the country, may be applied if the

perpetrator is sentenced with imprisonment or a fine, probation or a court reprimand.

(8) The sentence whereby the perpetrator is banned from driving a motor vehicle, may be applied as the only sentence to the perpetrator of a negligence for which a fine or an imprisonment sentence of up to one year has been prescribed, if the perpetrator has committed the crime under particularly extenuating circumstances.

### **Legality in the pronouncing of a punishment**

#### **Article 34**

(1) The offender is sentenced to the punishment prescribed for the perpetrated crime, and a more lenient punishment may only be pronounced under the conditions foreseen by this Code.

(2) For crimes perpetrated from self-interest, a fine may be pronounced as secondary punishment even if it is not prescribed by law, or when it is prescribed by law that the offender shall be sentenced with imprisonment or with a fine, and the court pronounces a punishment of imprisonment as the main punishment.

### **Imprisonment**

#### **Article 35**

(1) Imprisonment may not be shorter than thirty days, or longer than 15 years. For the crimes for which the law prescribes a life imprisonment sentence, a sentence of imprisonment of up to 20 years may be applied.

(2) If a punishment of 15 years of imprisonment is prescribed for a premeditated crime, a punishment of life imprisonment may be prescribed for severe forms of this crime.

(3) The punishment of life imprisonment may not be prescribed as the only main punishment.

(4) The punishment of life imprisonment may not be pronounced for an offender who at the time the crime was committed has not attained the age of 21 years.

(5) Imprisonment is pronounced with full years and months, and up to six months, also with full days.

(6) When a punishment of imprisonment is prescribed for crimes without appointing a minimal measure, and when the maximum measure is not longer than three years, it is compulsory to also pronounce a fine besides the punishment of imprisonment.

(7) The imprisonment shall take place within facilities for imprisonment sentences, specified by law.

### **Parole**

#### **Article 36**

(1) The condemned may be released from serving a punishment of imprisonment under the condition that until the expiration of the period for which the punishment was pronounced he does not perpetrate a new crime; if he has corrected himself so that it can be expected with justification that he would behave well in freedom, and especially that he would not commit crimes. The evaluation whether the condemned shall be set free on parole shall take into consideration his conduct during the serving of his sentence, his performance in the work duties considering his work capability, and other circumstances which show that the aim of the punishment has been achieved.

(2) The condemned that has served one half of a punishment of imprisonment may be released on parole.

(3) As an exception, a condemned who has served one third of a punishment of imprisonment may also be released on parole, under the conditions from item 1, and if special circumstances concerning the personality of the condemned evidently show that the aim of the punishment has been attained.

(4) The condemned sentenced to life imprisonment may not be released on parole before he serves at least 15 years of the punishment of imprisonment.

(5) For the put on probation, the court may specify a protective supervision, which shall comprise special measures of assistance, care, supervision or protection specified by the social authority.

(6) A juvenile may be released on parole from serving a punishment of juvenile imprisonment if he has served one third of the punishment, but not before he stays one year of the duration of the sentence, and if grounds exist to expect that according to the results achieved in correction and reeducation, he would behave well in freedom, continue his education and work, and would not commit crimes in the future. During the parole, the court may determine a measure of intensified supervision.

### **Revoking parole**

#### **Article 37**

(1) The court shall revoke the parole if during the time the condemned is under parole he commits one or more crimes for which a sentence has been pronounced of imprisonment or of juvenile imprisonment longer than two years.

(2) The court may revoke the parole if the person on parole commits one or more crimes for which a sentence of imprisonment or juvenile imprisonment of up to two years has been pronounced. In the evaluation whether it shall revoke the parole, the court shall especially take into consideration the similarity of the perpetrated crimes, their significance, the motives why they were perpetrated, and other circumstances that show the justification for revoking the parole or if after two written warnings from the competent authority, fails to fulfill the obligation pertaining to the protective supervision (article 36 paragraph 5).

(3) When the court revokes the parole, it shall pronounce a punishment with applying the provisions from articles 44 and 46 item 2, taking the previously pronounced punishment as already confirmed. The part of the punishment that the condemned has already served according to the previous sentence is calculated into the new punishment, and the time passed on parole is not considered.

(4) The provisions from items 1 to 3 shall be applied also when the person under parole is tried for a crime that he perpetrated before being put on parole.

(5) If the person on parole is sentenced to a punishment of imprisonment or to a juvenile imprisonment of up to two years, and the court does not revoke the parole, the parole is extended for the time which the condemned has passed in serving the punishment of imprisonment, respectively of juvenile imprisonment.

## **Fine**

### **Article 38**

(1) The fine shall be applied in the form of daily fines, where the number of the daily fines may not be less than five or more than 360 daily fines.

(2) The court shall specify the number of daily fines in accordance with the general rules for specifying the fine.

(3) the court shall determine the level of the daily fine having in mind the material and personal circumstances of the perpetrator, starting, as a rule, from the net daily actual or possible income of the perpetrator, as well as the family and other obligations of the perpetrator as well as the material situation of the perpetrator at the time of the passed judgment. The smallest amount of a daily fine may be the denar equivalent of one euro and the highest amount may be the denar equivalent of 5000 euros.

(4) The court decision shall contain the amount of the fine which may be obtained by multiplying the number of the daily fines with the specified amount of a single daily fine.

(5) For the purposes of determining the amount of the daily fine, the court may ask for reports from banks, financial and other institutions, state authorities and legal entities, which shall be obligated to submit the requested reports and can not invoke the principle of a trade or any other secret.

(6) In the case when the fine is applied as a secondary sentence in addition to an imprisonment sentence, the court shall determine the monetary amount, without applying the provisions stipulated in paragraphs 1 to 5. The monetary fine, if applied as a secondary fine, may not be less than the denar equivalent of 20 euros, nor more than the denar equivalent of 5000 euros.

## **Collection of a monetary fine**

### **Article 38-a**

(1) The judgment shall specify the deadline for payment of the fine, which may not be shorter than 15 days nor longer than three months. However, in certain justified cases the court may allow the defendant to pay the fine in installments, provided that the time period for the payment of the entire fine is not longer than two years. If the perpetrator is a foreign person the court shall specify the fine to be paid without any delay or its payment to be secured in another way.

(2) If the defendant fails to pay the fine within the specified time period, the court may specify a different time period or, if the court determines that the defendant does not want to pay the fine, to order a forced collection of the fine applying a procedure specified by law. If the provision of a new time period, which may not be longer than three months, or the forced collection prove unsuccessful, the court may act as follows: for each unpaid installment it may specify one day imprisonment or, when the fine has been applied as a secondary sentence, for every started denar equivalents of 20 euros, the court may specify one day imprisonment, provided that the total time of imprisonment may not be longer than six months.

(3) If the defendant pays only a part of the fine, the rest will proportionally be transformed into imprisonment time, and if the defendant pays the remainder of the fine, the imprisonment shall be terminated.

(4) After the death of the defendant the fine shall no longer be enforced.

## **Prohibition to perform profession, activity or duty**

### **Article 38-b**

(1) The court may ban the perpetrator which has been sentenced to imprisonment or probation stipulating imprisonment, from performing a certain profession or activity, duties or works related to obtaining, disposing, usage, management and handling of property or related to keeping of that property, if the perpetrator has abused his\her profession, activity or duty in order to perform a crime and if, based on the nature of the committed crime and the circumstances surrounding the crime, one may expect the perpetrator may further



abuse the activity to commit a future crime.

(2) The sentence from paragraph 1 shall also apply to prohibition from performing duties of an official, responsible person within a legal entity or person performing a work of public interest.

(3) In cases determined by law, a mandatory prohibition may be prescribed along with the sentence of imprisonment, in case the perpetrator has been sentenced with imprisonment of at least six months.

(4) The court shall determine the duration of the ban stipulated in paragraph (1), which may not be shorter than one or longer than ten years, counting from the day of the legal effectiveness of the judgment, with the provision that the time spent in imprisonment does not count towards the duration of the ban.

(5) When passing a judgment stipulating probation the court may specify that the probation will be revoked if the perpetrator violates the ban to perform the profession, activity or a duty.

### **Ban to operate a motor vehicle**

#### **Article 38-c**

(1) The perpetrator of a crime which jeopardizes public traffic may be banned by the court from operating a motor vehicle of a certain type and category, if it finds that the circumstances under which the crime was committed or any previous violations of the traffic rules, suggest that the perpetrator may commit such a crime again.

(2) When passing the sentence stipulated in paragraph 1, the court must arrange for the confiscation of the driving license from the perpetrator or ban any future issuance of a driving license to the perpetrator for the duration of the ban.

(3) The court shall pass the sentence stipulated in paragraph 1, if the crime has been committed in an intoxicated state.

(4) The court shall determine the duration of the ban, which may not be shorter than three months nor longer than five years, counting from the day of legal effectiveness of the judgment, with the provision that the time spent in imprisonment does not count towards the duration of the ban. If the perpetrator of the crime is a professional driver the duration of the ban may not be shorter than one year or longer than ten years.

(5) If the sentence stipulated in paragraph 1 is passed against a person that has a foreign driving license to operate a motor vehicle, the sentence shall ban the perpetrator from operating a motor vehicle on the territory of the Republic of Macedonia.

(6) When passing a judgment stipulating probation the court may specify that the probation will be revoked if the perpetrator violates the ban to operate a motor vehicle.

(7) When passing a judgment banning the operation of a motor vehicle as the only sentence, the court shall specify a fine or an imprisonment sentence which shall be performed if the perpetrator violates the ban.

### **Eviction of a foreigner from the country**

#### **Article 38-d**

(1) The court may pass a judgment for eviction of a perpetrator of a crime who is not a citizen of the Republic of Macedonia from the country, when it deems that the nature of the crime, the motives of the perpetrator and the circumstances under which the crime was committed suggest that undesirability of a future stay of the perpetrator in the country.

(2) The sentence stipulated in paragraph 1 may last from one to ten years or forever and commences on the day of the eviction of the perpetrator from the territory of the Republic of Macedonia.

(3) The sentence stipulated in paragraph 1 may not be passed against a perpetrator who enjoys protection in accordance with ratified international agreement.

## **3.2. To mete out punishment**

### **General rules to mete out punishment**

#### **Article 39**

(1) The court shall mete out a punishment to the offender within the limits prescribed by law for that crime, having in mind the criminal responsibility of the offender, the weight of the crime and the aims of the punishment.

(2) Hereby, the court shall have in mind all the circumstances that have influence upon decreasing or increasing the punishment (extenuating or aggravating circumstances), and especially: the level of criminal responsibility, the motives for the perpetrated crime, the extent of endangerment or damage to the protected goods, the circumstances under which the crime was committed, the contribution of the victim in the perpetration of the crime, the previous life of the offender, his personal circumstances and his behavior after the perpetrated crime, as well as other circumstances that concern the personality of the offender.

(3) When the court meets the punishment it shall especially have in mind the total effect of the punishment to the offender, its

consequences to the personality and needs of re-socialization of the offender.

(4) When the court metes out the punishment to the offender for the committed crime, perpetrated in repetition, it shall especially have in mind whether the previous crime is of the same kind as the new crime, whether the crimes were committed with the same motives and how much time passed since the previous sentence, respectively since the punishment was served or was forgiven.

(5) While meting out the sentence, the court shall particularly take into consideration if the crime was committed against a person or group of persons or property, directly or indirectly, due to his or their national and social background, political and religious belief, wealth and social position, gender, race or color of skin.

(6) When it metes out a fine, the court shall have in mind also the state of wealth of the offender, herewith considering his other incomes, his property and his family obligations.

## **Mitigation of the punishment**

### **Article 40**

The court may mete out a punishment for the offender under the limit prescribed by law or apply a more lenient form of punishment when:

- 1) the law foresees that the offender may be punished more leniently;
- 2) it concludes that especially extenuating circumstances exist which point out that the aim of the punishment shall be achieved also through a more lenient punishment.

## **Limits of mitigation of the punishment**

### **Article 41**

(1) When circumstances exist for the mitigation of the punishment from article 40, the court shall mitigate the punishment within these limits:

1. if the smallest prescribed measure of punishment for the crime is imprisonment with a duration of ten years or longer, the punishment may be mitigated to five years of imprisonment;
- 2) If, for a criminal activity, the court has passed, as the smallest sentence, a sentence of imprisonment of eight or more years, the sentence may be assuaged to four years of imprisonment.
3. if the smallest prescribed measure of punishment for the crime is imprisonment with a duration of five years or longer, the punishment may be mitigated to three years of imprisonment;
4. If, for a criminal activity, the court has passed, as the smallest sentence, a sentence of imprisonment of four or more years, the sentence may be assuaged to two years of imprisonment.
5. if the smallest prescribed measure of punishment for the crime is imprisonment with a duration of three years or more, the punishment may be mitigated to one year of imprisonment;
6. if the smallest prescribed measure of punishment for the crime is imprisonment with a duration of one year or more, the punishment may be mitigated to three months of imprisonment
7. if the smallest prescribed measure of punishment for the crime is imprisonment of under one year, the punishment may be mitigated to 30 days of imprisonment;
8. if the prescribed punishment for the crime is imprisonment of up to three years, with a designated smallest measure, a fine may be pronounced instead of the punishment of imprisonment;
9. if a fine is prescribed for the crime, with a designated smallest measure, the punishment may be mitigated to the general legal maximum.

(2) In deciding to what extent to mitigate the punishment according to the rules from item 1, the court shall especially have in mind the smallest and the largest measure of punishment prescribed for the crime.

## **Acquittal from punishment**

### **Article 42**

(1) The court may acquit from punishment the offender only when the law foresees this explicitly.

(2) When the court is authorized to acquit the offender from punishment, it may mitigate his punishment without the limitations that are prescribed for the mitigation of a punishment or to specify a secondary sentence stipulating a ban from operating a motor vehicle or eviction of a foreign person from the country.

## **Special base for acquittal from punishment**

### **Article 43**

The court may acquit from punishment an offender who committed a crime from negligence, when the consequences of the crime strike the offender so hard that the pronouncing of the punishment in this case would not fit the aim of the punishment.

Acquittal due to removal of the harmful consequences of the crime

### **Article 43-a**

For the crime, for which the law prescribes a fine or an imprisonment sentence of up to three years, which crime has been committed under particularly extenuating circumstances, and if the damaged party agrees, the court may acquit the perpetrator which will returned the gain taken away from the damaged party, will indemnify the damage done to the damaged party, or will in some other way rectify the harmful consequences from the criminal activity.

## **Concurrence of crimes**

### **Article 44**

(1) If the offender committed several crimes with one action or with several actions, for which he is tried simultaneously, the court shall previously determine the punishments for each one of these crimes, and then shall pronounce a single punishment for all of these crimes.

(2) The single punishment shall be pronounced by the court according to the following rules:

- 1) if it determines a punishment of life imprisonment of some crime in concurrence, it shall pronounce only this punishment;
- 2) if it has determined a punishment of imprisonment of crimes in concurrence, the single punishment must be larger than each individual punishment but it may not reach the sum of the determined punishments, nor may it exceed 15 years of imprisonment;
- 3) if punishments of up to three years of imprisonment are prescribed for all the crimes in concurrence, the single punishment may not be larger than eight years of imprisonment;
- 4) if it has determined only fines for crimes in concurrence, it shall increase the largest determined fine, but this may not exceed the sum of the determined fines, nor 600 daily fines, in the case when the fine is the main sentence, or the denar equivalent of 10,000 euro in the case when the fine is the secondary sentence. If for a crime, the court has specified a monetary fine in the form of daily fines, and for another crime the court has specified a monetary amount, the monetary amount shall be turned into a daily fine and the thus obtained fine may not exceed the sum of the specified installments nor 360 daily fine;
- 5) if it has determined punishments of imprisonment of some crimes in concurrence and fines for other crimes, it shall pronounce one punishment of imprisonment and one fine, according to the provisions in points 2, 3 and 4 from this item;
- 6) a secondary punishment shall be pronounced by the court if it has been determined even for a single crime in concurrence, and if it has determined several fines, it shall pronounce a single fine according to the provisions in point 4 of this item;
- 7) if the court has determined punishments of imprisonment and of juvenile imprisonment of crimes in concurrence, it shall pronounce imprisonment as the single punishment, with applying the rules from points 1, 2 and 3 of this item.

## **Crime in continuation**

### **Article 45**

(1) The offender who performs with intent two or more crimes, connected in time, which represent a multiple realization of the same crime, using the same permanent relation, same occasions or other similar circumstances, shall be sentenced by the court to a single punishment within the limits of the punishment prescribed for that crime.

(2) The offender who under the conditions from item 1 performs two or more crimes, connected in time, which represents the realization of generic crimes, shall be sentenced by the court to a punishment within the limits of the punishment prescribed for the most severe crime.

(3) If the perpetrator by performing the activities stipulated in paragraphs 1 and 2 achieves a total consequence pertaining to a more severe crime, the perpetrator shall be sentenced with a sentence prescribed for the more severe crime.

(4) The provisions stipulated in paragraph 1 and 2 shall not apply to activities performed after the filing of the charges.

## **To mete out a sentence for a sentenced person**

### **Article 46**

(1) If the sentenced person is tried for a crime perpetrated before he started serving the punishment from a previous sentence, or for a crime committed during the serving of imprisonment or juvenile imprisonment, the court shall pronounce a single punishment for all the crimes, by applying the provisions from article 44, taking the earlier pronounced punishment as already confirmed. The punishment or a part of the punishment that the condemned has already served shall be calculated in the pronounced sentence of imprisonment.

(2) For a crime perpetrated during the serving of a punishment of imprisonment or of juvenile imprisonment, the court shall sentence the offender to a punishment, regardless of the earlier pronounced punishment, if by using the provisions from article 44 the aim of the punishment would not be achieved, considering the duration of the part of the earlier pronounced measure that has not yet been served.

(3) The offender who commits a crime during the serving of the punishment of imprisonment or of juvenile imprisonment, for which the law prescribes a fine or imprisonment of up to one year, shall receive a disciplinary punishment.

## **Reckoning of pre-trial confinement and earlier punishment**

### **Article 47**

(1) The time passed in pre-trial confinement, as well as every arrest in connection with a crime, is reckoned in the pronounced punishment of imprisonment, of juvenile imprisonment or of a fine.

(2) Imprisonment or a fine which the condemned has already served, respectively paid, for a petty offense or an economic offense, is reckoned in the punishment pronounced for the crime whose characteristics include the characteristics of the petty offense or of the

economic offense.

(3) For each reckoning, a day of pre-trial confinement, a day of arrest, a day of juvenile imprisonment, a day of imprisonment and a one daily fine or the denar equivalent of 20 euros are all counted equal.

#### **4. ALTERNATIVE MEASURES**

##### **1. Goal and types of alternative measures**

###### **Goal of the alternative measures**

###### **Article 48**

The goal of the alternative measures is not to sentence a perpetrator for a smaller crime when that is not absolutely necessary due to criminal and legal protection and when it may be expected that the purpose of the punishment may be achieved by a warning with a threat of punishment (probation), only a warning (court reprimand) or measures of assistance and supervision of the behavior of the perpetrator.

###### **Article 48-a**

###### **The following alternative measures may be applied to perpetrators of crimes:**

- 1) probation;
- 2) probation with a protective supervision;
- 3) probationary suspension of the criminal procedure;
- 4) work for general benefit;
- 5) court reprimand and
- 6) house arrest.

##### **2. Probation judgment**

###### **Probationary postponement of the execution of the sentence**

###### **Article 49**

(1) With the conditional sentence, the court determines the punishment for the offender and at the same time it determines that this punishment shall not be executed if the offender does not commit a new crime during a period which the court determines, which cannot be less than one or longer than five years (control period).

(2) The court may determine in the conditional sentence that the punishment shall be executed also if the condemned does not repay the property gain gained by the perpetration of the crime, if he does not compensate the damages which he caused by the crime, or if he does not fulfill the other obligations foreseen by the criminal-legal provisions. The time frame for fulfilling these obligations is determined by the court within the framework of the determined control period.

(3) The security measures, pronounced with the conditional sentence, are executed.

###### **Conditions for pronouncing a conditional sentence**

###### **Article 50**

(1) A conditional sentence may be pronounced when a punishment for the offender was determined of imprisonment of two years or a fine.

(2) A conditional sentence may be pronounced also when a punishment has been determined of imprisonment with a duration of up to two years or a fine, by applying the provisions for mitigation of punishment (articles 40, 41 and 42 item 2).

(3) In the decision making process whether a conditional sentence shall be pronounced, and considering the aim of the conditional sentence, the court shall especially take into consideration the offender's personality, his previous life, his behavior after the perpetrated crime, the extent of criminal responsibility, and other circumstances under which the crime was committed.

(4) If a punishment of both imprisonment and a fine were determined for the offender, a conditional sentence may be pronounced for both punishments, or just for the punishment of imprisonment.

###### **Revoking a conditional sentence because of a new crime**

###### **Article 51**

(1) The court shall revoke the conditional sentence if during the control period, the condemned commits one or more crimes for which a punishment of imprisonment of two years or longer has been pronounced.

(2) If during the control period the condemned commits one or more crimes for which a punishment is pronounced of imprisonment of less than two years or a fine, after it evaluates all the circumstances concerning the committed crimes and the offender, and especially the relationship of the perpetrated crimes, their significance and the motives why they were committed, the court shall decide whether it

shall revoke the conditional sentence. Hereby, the court is bound by a ban on pronouncing a conditional sentence if the offender is to be sentenced to a punishment of more than two years of imprisonment of the crimes determined in the conditional sentence and for the new crimes (article 50, item 1).

(3) If it revokes the conditional sentence, and by applying the provisions from article 44, the court shall pronounce a single punishment, both for the previously committed crime and for the new crime, taking the punishment from the revoked conditional sentence as confirmed.

(4) If it does not revoke the conditional sentence, the court may pronounce a conditional sentence or punishment for the new committed crime. If the court finds that it should pronounce a conditional sentence for the new crime, also, by applying the provisions from article 44 it shall determine a single punishment, both for the previously committed crime and for the new crime, and it shall determine a new control period which cannot be shorter than one and not longer than five years, counting from the day the new sentence comes into effect. For the offender who is sentenced to imprisonment of a new crime, the time served for this punishment shall be reckoned within the control period determined with the conditional sentence for the previous crime.

### **Revoking a conditional sentence because of a crime committed earlier**

#### **Article 52**

(1) The court shall revoke the conditional sentence if it determines, after it is pronounced, that the condemned has committed a crime prior to being sentenced conditionally, and if it evaluates that there would be no reason for pronouncing a conditional sentence if it had been known about that crime. In that case, the provision from article 51, item 3, shall be applied.

(2) If the court does not revoke the conditional sentence, it shall apply the provision from article 51, item 4.

### **Revoking a conditional sentence because of non-realization of certain obligations**

#### **Article 53**

If the conditional sentence determines that the condemned should realize some obligation from article 49, item 2, and he does not fulfill this obligation within the time frame determined in the sentence, the court may, within the framework of the control period, extend the time frame for fulfillment of the obligation, or it may revoke the conditional sentence and pronounce the punishment that was determined by the conditional sentence. If the court determines that the condemned, for justified reasons, cannot fulfill the set obligation, the court shall exempt him from fulfillment of that obligation, or it shall substitute it with some other appropriate obligation, foreseen by law.

### **Time frames for revoking a conditional sentence**

#### **Article 54**

(1) The conditional sentence may be revoked during the control period. If the condemned at that time commits a crime, which calls for revoking of the conditional sentence, and this was determined by the sentence only after the control period, the conditional sentence may be revoked at the latest within one year from the day the control period expired.

(2) If the condemned does not fulfill some obligation from article 49, item 2, within the determined time frame, the court may decide, at the latest within one year from the day the control period expired, that the punishment determined in the conditional sentence should be executed.

3. Conditional sentence with protective supervision

### **Conditions for determining protective supervision**

#### **Article 55**

(1) The court shall determine protective supervision when it finds that the conditional sentence shall not have sufficient influence upon the offender not to commit new crimes, again, and the circumstances connected with the offender's personality or his living environment justifies the expectation that the aim of the conditional sentence shall be achieved if measures of help, care, supervision or protection are determined.

(2) The court determines the duration of the protective supervision to a certain time during the control period.

### **Obligations in protective supervision**

#### **Article 56**

(1) When the court pronounces protective supervision, it may determine one or more of the following obligations for the convicted person:

- 1) training, specialization and learning a new trade, so that the condemned may retain the job he already has, or to create preconditions for employment;
- 2) acceptance of an employment which corresponds to the capabilities and affinity of the condemned;
- 3) attendance of a program for work with convicted persons who committed crimes in cases of domestic violence;
- 4) execution of the obligations for maintaining a family, raising children and other family obligations;
- 5) enabling insight and counseling in connection with the distribution and spending of salary income and other revenues which he earns;
- 6) not visiting certain types of premises or other places where alcoholic drinks are served and where gambling exists;
- 7) prohibition of using alcoholic drinks, narcotics or other similar psychotropic substances;

- 8) using the free time according to the opinion of the social agency;
- 9) avoiding and not being together with persons that have a negative influence upon the condemned; and
- 10) submitting to medical treatment or social rehabilitation in appropriate specialized institutions;

(2) When it selects the type of obligation, the court shall take into consideration first of all the offender's personality, his health situation and psychological characteristics, the age, the financial and family conditions, the circumstances under which he committed the crime, the offender's conduct after the crime was committed, the motives for committing the crime, and other circumstances regarding the offender's personality, which are of significance for the selection of the type of obligation, taking care not to damage the human dignity, nor to cause unnecessary difficulties in his re-education.

(3) During the time of conditional postponing of the execution of the determined punishment, the court may substitute the determined obligation with some other one, or it may revoke it, upon the suggestion from the social agency or from the condemned person.

#### **Agency for conducting the protective supervision**

##### **Article 57**

(1) Help and care, supervision and protection in the execution of the obligation by the offender are performed by the social agency and adequate counseling center.

(2) The social agency and the adequate counseling center are obliged:

- 1) to stimulate and to help the condemned, with practical advice, to fulfill the obligation determined by the court, to understand the meaning of the conditional sentence with the protective supervision, in order to achieve its aims; and
- 2) from time to time to inform the court about the state of fulfilling the determined obligation.

#### **Consequences from non-fulfillment of the determined obligation**

##### **Article 58**

(1) If the conditionally condemned person does not fulfill the determined obligations, the court may reprimand him to fulfill the determined obligation or it may substitute it with some other one.

(2) If the condemned continues not to fulfill the determined obligation, the court may extend the duration of the protective supervision, or revoke the conditional sentence, within the time of the control period.

(3) If more than six months pass after the decision, with which the protective supervision was determined, comes into effect and the supervision has not yet started, the court shall decide again about the need for executing it. +

#### **4. Probationary suspension of the criminal procedure**

##### **Conditions for suspension**

###### Article 58-a

(1) For a crime for which the law prescribes a fine or an imprisonment sentence of up to one year, the court may decide, after questioning and hearing the defendant and with the agreement of the damaged party, to suspend the procedure, provided that the perpetrator will not perform another crime within the time period of the suspension of the procedure.

(2) The procedure may, by a decision from the court, be suspended for a time period of at most one year. The time period for suspension is not included in the time period for statute of limitations of the criminal prosecution.

(3) If the perpetrator, within the probation period does not commit a new crime or if, within this period, a previously committed crime is not uncovered, the procedure shall be terminated.

(4) When deciding to apply this measure, the court shall take into account in particular the expressed repentance and apology of the perpetrator, removal of the consequences of the crime and indemnification of damages caused by the crime.

5. Work for general benefit

##### **Conditions for applying the work for general benefit measure**

###### Article 58-b

(1) For the criminal activities for which the law prescribes a monetary fine or an imprisonment sentence of up to three years, the court may, after an agreement with the perpetrator, apply the work for general benefit measure instead of imprisonment, if the crime has been committed under extenuating circumstances and if the perpetrator had not been convicted previously.

(2) The measure shall be applied for a time period from 40 to 240 hours during which the defendant must work without any compensation, within a state authority, public enterprise, public institution or a humanitarian organization, during state holidays, Saturdays and Sundays and not less than five hours per week, during a period of at most 12 months. If there exist health or justifiable personal reasons, the court may extend the execution of the measure for at most six months.

(3) If the court passes a judgment stipulating a monetary fine of up to 90 daily fines or the denar equivalent of 1,800 euros or an imprisonment sentence, it may decide, upon a request from the perpetrator, to exchange the passed sentence for work for general benefit, under the following terms: one day of imprisonment, one daily fine or the denar equivalent of 20 euros shall be exchanged for three hours work for general benefit and the total number of hours may not exceed 240 hours. When deciding to exchange the sentence with the work for general benefit measure the court will take into account the severity of the crime, the level of criminal responsibility, if the defendant had been convicted before and any compensation of the damages and removal of the harmful consequences of the crime.

(4) The court shall supervise the fulfillment of the obligations of the convicted person, in accordance with a procedure specified by law.

(5) If the convicted person fails to fulfill or inappropriately fulfils his/her obligations, the court shall send him/her a written warning, and if he/she continues to behave this way, the court may decide to increase the number of hours or to extend the time period for the measure for at most three months, if there exist justifiable reasons, or to replace the remainder of the measure with a fine or an imprisonment sentence so that every three hours of general benefit work will be replaced with one day of imprisonment or one daily fine. When deciding to replace the measured with a fine or imprisonment, the court shall be guided by the severity of the crime, the level of criminal accountability and the attitude of the convicted person towards the applied work for general benefit measure.

(6) If the convicted person fails to perform the work for general benefit, applied as a replacement for a fine or an imprisonment sentence (paragraph 3), the court shall pass a decision stipulating the enforcement of the original sentence. The work obligations that the perpetrator has fulfilled shall count towards the total sentence, and every three hours of general benefit work shall count as one daily fine or one day of imprisonment or the denar equivalent of 20 euros.

## 6. Court reprimand

### Conditions for pronouncing a court reprimand

#### Article 59

(1) A court reprimand may be pronounced for crimes for which a punishment is prescribed of imprisonment of up to one year or a fine, and which were committed under such alleviating circumstances which make it especially light.

(2) For certain crimes and under conditions foreseen by law, a court reprimand may be pronounced also when an imprisonment of up to three years is prescribed.

(3) The court may pronounce a court reprimand for several crimes, committed in concurrence, if the conditions from items 1 and 2 exist for every one of these crimes.

(4) When deciding whether to pronounce a court reprimand, and considering the aim of the court reprimand, the court shall especially take into consideration the offender's personality, his previous life, his behavior after the perpetrated crime, the extent of criminal responsibility and other circumstances under which the crime was committed.

## 7. House arrest

### Conditions for applying the house arrest measure

#### Article 59-a

(1) If the perpetrator of the crime for which the law prescribes a fine or an imprisonment sentence of up to one year, is old and weary, severely ill or a pregnant women, the court may sentence him\her to imprisonment and at the same time, it may decide, with the agreement of the perpetrator, that the sentence should be served in house arrest.

(2) The court may replace the imprisonment sentence with house arrest if there are conditions, involving modern electronic and communications devices, to control the execution of the house arrest, whereby the convicted person is banned from leaving his/her home

(3) The court shall supervise the execution of the house arrest, and it may specify certain surveillance measures to be undertaken by the police in the place where the home of the convicted person is located, with the obligation to continuously report on the execution of those measures.

(4) If the convicted person violates the ban and leaves the house, the court may decide that the convicted person should serve the replaced sentence in full, within a correctional facility.

## 5. SECURITY MEASURES

### Aim of the security measures

#### Article 60

The aim of the security measures is to remove situations or conditions that can influence the offender to commit crimes in the future.

### Types of security measures

#### Article 61

Offenders may be sentenced to the following security measures:

- 1) compulsory psychiatric treatment and custody in a health institution;
- 2) compulsory psychiatric treatment in freedom;
- 3) compulsory treatment of alcoholics and drug addicts;

## **Pronouncing a security measure**

### **Article 62**

(1) The court may pronounce one or more security measures for the offender, when conditions foreseen by this Code exist for them to be pronounced.

(2) Compulsory psychiatric treatment and custody in a health institution, and compulsory psychiatric treatment in freedom, are pronounced for a mentally incompetent perpetrator of a crime, independently.

(3) In the decision stipulating the measures from paragraph 2, the court may temporarily ban the perpetrator from performing his/her profession, activity or duty, or temporarily ban the perpetrator from operating a motor vehicle, which bans shall last for the whole duration of the application of the measures. The court shall submit its decision to the competent authority or the legal entity where the perpetrator is employed, to the registry court or to the authority in charge for supervising the enforcement of the ban to operate a motor vehicle.

(4) The perpetrator whose accountability has been significantly diminished shall be required to undergo an obligatory psychiatric treatment and stay in a health institution as well as an obligatory psychiatric treatment out-of-prison, if the perpetrator has been sentenced to imprisonment, probation stipulating an imprisonment sentence or a probation with a protective supervision.

(5) The perpetrator may be required to undergo an obligatory treatment for alcoholics and drug-addicts, if the passed judgment stipulates probation, probation with a protective supervision, a court reprimand or an acquittal.

## **Compulsory psychiatric treatment and custody in a health institution**

### **Article 63**

(1) The court shall pronounce a compulsory psychiatric treatment and custody in a health institution to the offender who committed a crime in state of insanity or of significantly decreased mental competence, if it determines that because of this state, he may again commit a crime and that for the removal of this danger, it is necessary to treat him and put him under custody in such an institution.

(2) The court shall stop the measure from item 1 when it determines that the need for treatment and custody of the offender in a health institution has ceased.

(3) For the offender who has committed a crime in a state of significantly decreased mental competence and who is sentenced to imprisonment, the time passed in a health institution is reckoned in the time of duration of the pronounced punishment. If this time is shorter than the duration of the pronounced sentence, the court may determine to send the condemned to serve out the remainder of the punishment, or to let him go on parole, regardless of the conditions prescribed in article 36. In deciding on parole, the court shall especially take into consideration the success of the treatment of the condemned, his health situation, the time passed in the health institution, and the remainder of the punishment which the condemned has not served.

(4) The court shall review the need for treatment and custody of the offender in a health institution every year.

## **Compulsory psychiatric treatment in freedom**

### **Article 64**

(1) The court shall sentence the offender who has committed a crime in the state of unaccountability to compulsory psychiatric treatment in freedom, if it determines that because of this state, he could commit a crime again, while his treatment in freedom is sufficient for removing this danger.

(2) The measure from item 1 may be pronounced against an unaccountable perpetrator, for whom a compulsory psychiatric treatment and custody in a health institution was determined, when based on the results of the treatment, the court finds that it is not necessary any more for him to be under custody and to be treated in a health institution, but only in freedom.

(3) Under the conditions from item 1, the court may pronounce a compulsory psychiatric treatment in freedom also against an offender whose mental competence is significantly decreased and who was put on parole based on article 63, item 3.

(4) A compulsory psychiatric treatment in freedom when applied to a perpetrator whose accountability has been significantly diminished may not last longer than two years.

(5) For a perpetrator whose accountability has been significantly diminished and has been sentenced to imprisonment, the time spent undergoing an obligatory psychiatric treatment out-of-prison shall count as part of the imprisonment sentence.

(6) If in the cases from items 1, 2 and 3 the offender does not submit himself to treatment in freedom, or if he self-willingly abandons it,



or if the conditions for pronouncing the measure from article 63 have been attained, the court may substitute it with this measure.

### **Compulsory treatment of alcoholics and drug addicts**

#### **Article 65**

(1) The court may pronounce compulsory treatment for an offender because of addiction to continuous use of alcoholic drinks, narcotics and other psychotropic substances, where the danger exists that he shall continue to commit crimes because of this addiction.

(2) The measure from item 1 is executed in an institution for the execution of a punishment or in a health or other specialized institution. The time spent in such an institution is reckoned within the punishment.

(3) When pronouncing a conditional sentence, the court may impose upon the offender treatment in freedom, if the offender agrees to submit himself to such treatment. If the offender does not submit himself to treatment in freedom without justified reason, or if he abandons the treatment self-willingly, the court may determine to revoke the conditional sentence or to impose the execution of the measure of compulsory treatment of alcoholics or drug addicts in a health institution or in some other specialized institution.

(4) If this measure is pronounced with the conditional sentence, except and imprisonment sentence, or probation, probation with a protective supervision, a court reprimand or an acquittal, it may last a maximum of two years.

### **Chapter six-a**

#### **SANCTIONING A LEGAL ENTITY**

##### **Main sentence**

##### **Article 96-a**

(1) For crimes committed by legal entities, the main sentence is monetary fine.

(2) The monetary fine shall be applied in an amount which may not be less than 100.000 nor more than 30 million denars.

(3) For crimes committed for self-interest as well as for crimes committed for benefit or for crimes which cause a more substantial damage, one may prescribe a fine for twice the maximum amount of this sentence or proportional to the damage caused or the benefit obtained, but not more than 10 times their amount.

##### **Auxiliary sentences**

##### **Article 96-b**

Under conditions specified in this law, the competent court, in case it determines that the legal entity has abused its activity and there is a threat of repeating the crime in future, the Court may determine one or several auxiliary sentences:

- 1) prohibition against obtaining permit, license, concession, authorization or any other right prescribed by a special law;
- 2) prohibition against participation in public bids, assigning public procurement agreements and contracts for public- private partnership;
- 3) prohibition against establishment of new legal entities;
- 4) prohibition against use of subsidies and other favorable credits;
- 5) revoking of permit, license, concession, authorization or any other right prescribed by a special law;
- 6) temporary prohibition against performance of certain activity;
- 7) permanent prohibition against performance of certain activity;
- 8) termination of the status of legal entity.

##### **Conditions for pronouncing auxiliary sentences**

##### **Article 96-c**

(1) The Court may pronounce the sentences specified in article 96-b, item 1 to 4 of this law together with a fine, if the Court considers that the pronouncement of one or more auxiliary sentences corresponds to the severity of the committed crime and that shall prevent the legal entity to commit such acts in future.

(2) The Court shall determine the duration of the sentences under paragraph (1) of this Article, which shall not be less than one, nor more than five years.

(3) The Court shall pronounce revoking a permit, license, concession, authorization or any other right determined by a special law and a fine, if the circumstances of the crime show that the obtained permit, license, concession, authorization or any other right has been abused for the crime to be committed.

(4) The court shall determine temporary ban against performance of activity in duration from one to three years along with a fine, if during the performance of the activity of the legal entity a crime has been committed for which a physical person would be subject to a fine or imprisonment of up to three years, and the manner in which the crime was committed shows there is a threat that the same or similar crime may be committed.

(5) The court shall determine permanent ban against performance of a specific activity out of all activities performed by the legal entity and a fine, if a crime has been committed for which a physical person would be subject to imprisonment of at least three years, and the manner in which the crime was committed shows there is a threat that the same or similar crime may be committed.

(6) The court shall also determine the sentence under paragraph (5) of this Article in case of a crime where there is a final verdict against the legal entity on temporary ban to perform activity.

(7) The court shall determine termination of the status of the legal entity and a fine, if a crime has been committed for which a physical person would be subject to imprisonment of at least five years, and the manner in which the crime was committed shows there is a threat that the same or similar crime may be committed.

(8) The court shall also determine the sentence under paragraph (7) of this law on in case of a crime where there is a final verdict against the legal entity on permanent ban to perform specific activity.

(9) The sentence temporary or permanent ban to perform specific activity and termination of the status of the legal entity cannot be pronounced for a legal entity established by law, and for a political party.

(10) Based on a final verdict that determines a sentence termination of the status of the legal entity, the competent court shall initiate a lawful procedure for liquidation of the legal entity, within 30 days from the day the verdict enters into force.

## **Registering and Deleting of Sentences**

### **Article 96-d**

(1) The main and auxiliary sentences of Articles 96-a and 96-b of this law are filed electronically in the Register for Sentences for Crimes Committed by Legal Entities which is maintained by the Central Registry of the Republic of Macedonia.

(2) The main sentence of Article 96-a of this law shall be deleted by virtue of office from the abovementioned register three years from the day when the sentence was served or from the day the sentence expired.

(3) The auxiliary sentences of Article 96-b items 1 to 6 of this law shall be deleted by virtue of office from the abovementioned register after the expiry of the period for which they were pronounced.

(4) Access to records from the Central Registry is provided pursuant to Article 106 of this law.

## **Publication of a valid court decision**

### **Article 96-e**

(1) Upon request of the damaged party, the Court, upon burden of the convicted person, may decide the valid court decision to be published, or part thereof, in the Official Gazette of the Republic of Macedonia and two daily newspapers, one of which is in the language of the members of the communities which are non-majority in the Republic of Macedonia.

(2) Upon request of the legal entity that has been exonerated or a legal entity for whom the procedure has been interrupted with a valid court decision, the court shall decide the decision or part thereof to be published, upon burden of the Judicial Council, in the "Official Gazette of the Republic of Macedonia" or two daily newspapers, one of which is in the language of the members of the communities which are non-majority in the Republic of Macedonia..

## **Imposition of a sentence**

### **Article 96-f**

(1) When imposing a sentence, the Court shall take into consideration the balance sheet and the income statement of the legal entity, the type of activity, the nature and severity of the committed crime.

(2) If the Court determines a fine for two or more concurrent crimes, the sole fine may not reach the sum of the individual fines, nor may exceed the statutory maximum of the fine prescribed for the legal entity.

## **Imposition of a Fine**

### **Article 96-g**

(1) For crimes for which a fine or imprisonment of up to three years is imposed, the legal entity shall be subject to a 500 000 MKD fine or, if the crime has been committed from self-interest or which resulted in a damage of great proportions, the maximum fine shall be up to twice the cost of the damage caused or the benefit gained.

(2) For crimes for which imprisonment of at least three years is imposed, the legal entity shall be subject to a fine of up to one million denars or, if the crime has been committed from self-interest or which resulted in a damage of great proportions, the maximum fine shall be up to five times the cost of the damage caused or the benefit gained.

(3) For crimes for which imprisonment of at least five years is imposed, the legal entity shall be subject to a fine of one million denars or, if the crime has been committed from self-interest or which resulted in a damage of great proportions, the maximum fine shall be up to ten times the cost of the damage caused or the benefit gained.

## **Reduction of fines**

### **Article 96-h**

The Court may impose upon the legal entity a fine that is less than the one prescribed in Article 96-f of this law, if:

- 1) the law provides reduced sentences;
- 2) the law provides a possibility for release without penalty, but the court will not release the legal entity without penalty;
- 3) the court determines that there are particularly mitigating circumstances and even with a reduced sentence the court can accomplish the objective of the sanction.

## **Limitation of reduction of fines**

### **Article 96-i**

(1) When the conditions for reduction of fine specified in Article 96-g of this law, the court shall reduce the sentence within the following limitations:

- 1) for a crime for which the legal entity may be subject to a fine of up to 500 000 MKD or up to twice the amount of the gained benefit or the damage caused, a reduced fine of up to 100 000 MKD may be imposed;
- 2) for a crime for which the legal entity may be subject to a fine of up to one million denars or up to five times the amount of the gained benefit or the damage caused, a reduced fine of up to 200 000 MKD or twice the cost of the damage caused or the benefit gained may be imposed;
- 3) for a crime for which the legal entity may be subject to a fine of at least one million denars or up to ten times the amount of the gained benefit or the damage caused, a reduced fine of up to 300 000 MKD or five times the cost of the damage caused or the benefit gained may be imposed.

(2) If the court is authorized to release the legal entity from penalty, the court may reduce the penalty, regardless of the limitations provided for in paragraph (1) of this Article to the minimum amount of the fine.

## **Exempt from payment of a fine**

### **Article 96-j**

The legal entity may be relieved from payment of a fine, if the responsible person with the legal entity, the managing body or the administering body or the supervisory body, after the crime is committed, voluntarily report the perpetrator of the crime or return the proceeds or remove the caused damages or in any other way compensate the harmful effect of the criminal act.

## **Execution of the fine**

### **Article 96-k**

(1) If the convicted legal entity fails to pay the fine within the period determined by the court, which may not be less than 15 days nor more than 30 days from the day the verdict becomes final, the verdict shall be forcefully executed.

(2) If the fine cannot be executed from the assets of the legal entity, due to the fact that the legal entity does not possess assets or ceased to exist before execution of the sentence, the fine shall be collected from its legal successor, and if there is no legal successor it shall be collected from the assets of the founder or founders of the legal entity, proportionally to their share, i.e., in cases regulated by law, for trade companies the fine shall be collected from the assets of the stockholders, i.e., cofounders, proportionally to their share.

(3) The fine for foreign legal entities shall be executed from the assets confiscated in the Republic of Macedonia or, when applying an international agreement ratified according to the Constitution of the Republic of Macedonia, from the assets abroad.

## **Conditional postponement of the execution of the fine**

### **Article 96-l**

(1) The Court may impose conditional postponement of the execution of the fine and the sentences which prescribe prohibition against obtaining permit, license, concession, authorization or any other right prescribed by a special law for a period of one to three years, in case of a crime subject to a fine or imprisonment of up to three years, if the legal entity provides guarantee for execution of the fine in case of termination of the conditional sentence.

(2) The conditional postponement shall be revoked if within the period of supervision a new crime is committed, if a formerly committed crime is discovered or if the legal entity does not provide a guarantee for payment of the fine within the timeframe determined by the court.

(3) The suspended sentence may be revoked during the period of supervision, and if the legal entity commits another crime during that period, which is determined with a verdict after the expiry of period of supervision, the suspended sentence may be revoked at the latest within one year from the day when the period of supervision expired.

## **Confiscation of property and property gain and forfeiture of objects**

### **Article 96-m**

(1) The provisions from articles 97 to 100 from this Law shall apply to confiscation of property and property gain obtained from criminal acts by a legal entity.

(2) If property or property gain cannot be confiscated from the legal entity, due to the fact that it ceased to exist before performing the confiscation, then the legal successor, i.e. successors, or if there are no legal successors, the founder or founders of the legal entity, i.e., the stockholders or cofounders in case of a trade company, as determined by law, shall be obliged to jointly pay an amount corresponding to the obtained property gain.

(3) The provisions of article 101-a of this Law shall apply to confiscation of objects from the legal entity.

### **Special provisions for statute of limitations for criminal prosecution and execution of sentence**

#### **Article 96-n**

(1) The criminal prosecution of a legal entity cannot be initiated in the following cases:

- 1) three years after a crime was committed which is subject to a fine or imprisonment of up to three years;
- 2) five years after a crime was committed which is subject to imprisonment of more than three years and
- 3) ten years after a crime was committed which is subject to imprisonment of more than five years.

(2) The statute of limitations for execution of fine and the sanction of revoking of permit, license, concession, authorization or any other right prescribed by a special law shall be applicable three years after the verdict that prescribes these sentences enters into force.

(3) The statute of limitations for execution of sentences prescribing prohibitions shall be applicable after the expiry of the period for which they have been pronounced.

(4) The provisions of Articles 107 through Article 112 of this Law shall apply to the termination and the course of the statute of limitations for criminal prosecution and the course and termination of the statute of limitations for execution of fine and the auxiliary sentences.

## **7. CONFISCATION OF PROPERTY AND MATERIAL PROFITS AND CONFISCATION OF OBJECTS**

### **1. Confiscation of property and material profits**

#### **Grounds for confiscation property gain**

##### **Article 97**

(1) No one may retain the indirect and direct property gain gained through a crime.

(2) The benefit from item 1 shall be confiscated with the court decision with which the execution of the crime was determined, under the conditions foreseen by this Code.

(3) The decision to confiscate shall be passed by the court in a procedure specified by law also in the case when, due to factual or legal reasons, it is impossible to conduct the criminal procedure with respect to the perpetrator of the crime.

(4) In accordance with the conditions specified in a ratified international agreement, the confiscated property may be returned to another country.

#### **Confiscation of indirect property gain**

##### **Article 97-a**

Apart from direct property gain the perpetrator shall be subject to confiscation of the indirect property gain, consisting of the following:

- 1) the property into which the proceeds of crime have been transformed or converted,
- 2) the property acquired from legitimate sources if proceeds of crime have been intermingled, fully or partially, with that property, up to the estimated value of the intermingled proceeds of crime, and
- 3) the income or other benefits derived from the proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled, contains the proceeds from a crime, up to the estimated value of the intermingled proceeds of crime.

#### **Manner of confiscating**

##### **Article 98**

(1) The indirect and direct proceeds of crime that include money, movable or immovable valuable items, as well as any other property, real estate or assets, tangible or non-tangible rights shall be confiscated from the perpetrator, and if confiscation is not possible, other assets shall be confiscated from the perpetrator which correspond to the value of the proceeds.

(2) The indirect and direct proceeds shall be also confiscated from third parties for whom they have been obtained by committing the crime.

(3) The proceeds of crime referred to in paragraph 1 shall be also confiscated from family members of the perpetrator to whom the proceeds were transferred, if it is obvious that they did not provide compensation that corresponds to the value of the obtained proceeds or from third parties, if they fail to prove that they paid an amount corresponding to the value of the proceeds for the item or property.

- (4) The objects which have been declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached, shall be confiscated from third persons, regardless of whether these objects have been transferred to the third parties with an appropriate compensation.
- (5) The goods that are confiscated are returned to the damaged person, and if there is no damaged person, they become the property of the state.
- (6) If during the criminal proceeding, the damaged person is adjudged a property and legal claim, the court shall pronounce a taking away of property gain, if this exceeds the amount of the claim.

### **Extended confiscation**

#### **Article 98-a**

- (1) The property of a perpetrator of a crime committed as part of a criminal enterprise which is subject to imprisonment of at least 4 years, as well as for a crime related to terrorism as prescribed by Articles 313, 394 – a, 394-b, 394-c and 419, subject to 5 years of imprisonment or more severe punishment or if the crime is related to money laundering, for which an imprisonment of at least 4 years is prescribed, shall be confiscated, if it was acquired within a certain period of time before the court conviction, which the court establishes according to the circumstances of the case, but not longer than 5 years before committing the crime, when based on all circumstances the court is reasonably convinced that the property is surpasses the lawful income of the perpetrator and it originates from such an act.
- (2) The property referred to in paragraph (1) of this article shall be also confiscated from third parties for whom it has been obtained by committing the crime.
- (3) The property referred to in paragraph (1) shall be also confiscated from family members of the perpetrator to whom it was transferred, when it is obvious that they did not provide compensation that corresponds to its value or from third parties, if they fail to prove that they paid an amount corresponding to the value of the item or property.

### **Protection of the damaged person**

#### **Article 99**

- (1) The damaged person who was referred to a litigation in the criminal procedure in regard to his property and legal claim, may demand that this be settled from the confiscated value, if he starts a litigation within six months after the day the decision with which he was referred to a litigation comes into effect, and if within three months from the day of coming into effect of the decision with which his claim was determined, he claims the settling of the taken away value.
- (2) The damaged person who has not reported a legal and property claim in the criminal procedure, may demand the settling from the confiscated value if he has started a litigation for determining his claim within a time frame of three months from the day he finds out about the sentence with which the property gain is confiscated, and at the latest within two years after the decision for confiscating the property gain comes into effect, and if within three months from the day the decision with which his claim was determined comes into effect, he requests the settling of the taken away value.

### **Confiscating from a legal entity**

#### **Article 100**

If a legal entity gains property gain from the crime of the offender, this gain shall be confiscated from it.

## **2. Confiscation of objects**

### **Conditions for confiscation of objects**

#### **Article 100-a**

- (1) Nobody may keep or claim for their own objects that been occurred through a criminal activity.
- (2) Objects that were intended or have been used to commit a crime shall be confiscated from the perpetrator, regardless of whether they belong to the perpetrator or to a third party, if this is required by the interest of general safety, health of the people or moral reasons.
- (3) The objects which have been used or were intended to be used to commit a crime may be confiscated if there is a threat that they may be used to commit another crime. Objects, which are the property of a third party, shall not be confiscated, except if the third party knew, could now and was obligated to know that these objects have been used or were intended to be used to commit a crime.
- (4) The court shall pas a decision to confiscate the objects within the framework of a procedure specified by law also in the case when, due to factual or legal reasons, it is impossible to conduct the criminal procedure with respect to the perpetrator of the crime.
- (5) The application of this measure does not interfere with the right of third parties to compensation of damages from the perpetrator of the crime.

(6) Under the conditions stipulated in the ratified international agreements, the objects may be returned to another country.

## **8. LEGAL CONSEQUENCES OF THE SENTENCE**

### **Setting in of legal consequences from the sentence**

#### **Article 101**

(1) The legal consequences from the sentence, which are attached to the sentences specified for certain crimes, may apply only when the perpetrator of the crime is sentenced to imprisonment.

(2) Legal consequences may be foreseen only by law, and they set in by force of the law with which they are foreseen.

### **Start and duration of legal consequences from the sentence**

#### **Article 102**

(1) The legal consequences from the sentence set in on the day the sentence comes into effect.

(2) The legal consequences from the sentence, which consist of prohibition on attaining certain rights, last at the most ten years from the day the punishment was served, pardoned or became obsolete.

(3) The legal consequences from the sentence cease with the erasing of the sentence.

## **9. REHABILITATION**

### **Rehabilitation**

#### **Article 103**

(1) The rehabilitation of the condemned person may set in by force of law (legal rehabilitation), or based on a court decision (court rehabilitation).

(2) Rehabilitation means a pre-term ceasing of the sanctions involving bans and the eviction of foreign persons from the country and legal consequences from the sentence, and erasure of the sentence from the penal records.

(3) The rehabilitated person is considered not to be sentenced, and the data about the erased sentence is not given to anybody.

(4) The rehabilitation does not touch upon the rights of third persons, which are based on the sentence.

### **Legal rehabilitation**

#### **Article 104**

(1) The sentence of a pronounced alternative measure except probationary sentence and a sentence with which the perpetrator of a crime is acquitted from punishment are erased from the penal records if the condemned does not commit a new crime within one year from the day the court decision comes into effect.

(2) The conditional sentence is erased from the penal records after one year from when the control time expired, if during this time the condemned does not commit a new crime.

(3) The sentence to a fine and the sentence involving a temporary ban to operate a motor vehicle, passed as the only sentence is erased from the penal records after three years pass from the day the punishment is served, becomes obsolete or is pardoned, if during this time the condemned does not commit a new crime.

(4) The sentences to imprisonment of up to three years are erased from the penal records after five years pass from the day the punishment is served, becomes obsolete or is pardoned, if during this time the condemned does not commit a new crime.

(5) Several sentences to a single person may be erased from the penal records only at the same time, and then if conditions exist for erasing each one of these sentences.

### **Court rehabilitation**

#### **Article 105**

(1) After three years expire from the day the punishment is served, becomes obsolete or is pardoned, the court may determine that the legal consequences from the sentence cease, concerning the prohibition of attaining certain rights.

(2) After two years from the day of the application of the sentence involving a temporary ban to perform a specific activity, the court may decide to terminate the ban.

(3) Two years after the application of the following sentences: ban against obtaining permits, license, concession, authorization or any other right determined by a special law, ban against participation on public bidding, assigning contracts for public procurement and

agreements for private-public partnership, ban against establishment of new legal entities or ban against the use of subsidies and other favorable loans, the court may decide to terminate the bans before the expiry of the period for which they have been imposed.

(4) After three years expire from the day of implementation of sanctions, of prohibition of performing a profession, an activity or a function, and of prohibition of driving a motor vehicle and temporary eviction of a foreign person from the country, as well as the sentence permanently banning a legal entity from performing its activity, the court may decide for them to stop.

(5) When deciding about rehabilitation, the court shall take into consideration the behavior of the condemned after the sentence, the circumstance whether he has indemnified the damages, whether he has returned the property gain, as well as other circumstances of importance to this decision.

(6) Upon the request from the condemned, the court may determine to erase from the penal records the sentence to imprisonment: more than three years and up to five years, within a period of five years; more than five years and up to ten years, within a period of ten years; more than ten years and up to fifteen years, within a period of fifteen years, more than twenty years, within twenty years, from the day the punishment is served, becomes obsolete or is pardoned, if during this time the condemned does not commit a new crime. When deciding to erase the sentence, the court shall take into consideration the conduct of the condemned after serving the sentence, the nature of the crime and the other circumstances which may be of importance for the assessment of the justification for erasing the sentence.

## **Penal records**

### **Article 106**

(1) The penal records are maintained by the court of first instance, competent according to the birthplace.

(2) For persons born abroad, or those whose birthplace is unknown as well as legal entities, the penal records are maintained in the court which is determined by the law, unless another body is determined to maintain criminal records pursuant to this law.

(3) The data from the penal records may be given to the court and to the public prosecutor's office, in connection with a criminal procedure which is carried out against the earlier condemned person, and to the responsible agencies that participate in the procedure for granting an amnesty or a pardon.

(4) Data from the penal records may also be given upon justified request to state agencies, legal entities and physical persons, if certain legal consequences from the sentence or sanctions involving bans are still in effect, or if there is a justified interest for this, based on the law.

(5) No one has the right to demand from the citizens to submit proof of whether they have or they have not been sentenced.

(6) Upon their request, the citizens may be given data about whether they have or have not been sentenced, only if they need this data because of realizing their rights abroad.

## **10. OBSOLESCENCE**

### **Obsolescence of criminal prosecution**

#### **Article 107**

(1) If it is not determined otherwise by this Code, criminal prosecution may not be undertaken when the following expires:

- 1) thirty years from when a crime was committed, for which according to the law, a punishment of life imprisonment may be pronounced;
- 2) 20 years from when a crime was committed, for which according to the law, imprisonment of more than ten years may be pronounced;
- 3) ten years from when a crime was committed, for which according to the law, imprisonment of more than five years may be pronounced;
- 4) five years from when a crime was committed, for which according to the law, imprisonment of more than three years may be pronounced;
- 5) three years from when a crime was committed, for which according to the law, imprisonment of more than one year may be pronounced; and
- 6) two years from when a crime was committed, for which according to the law, imprisonment of one year or a fine may be pronounced;

(2) If several punishments are prescribed for a crime, the time frame is determined according to the most severe prescribed punishment.

### **Course and cessation of the obsolescence of the criminal prosecution**

#### **Article 108**

(1) The obsolescence of the criminal prosecution starts on the day the crime was committed.

(2) The obsolescence does not run at the time when, according to the law, the prosecution may not begin or continue.

(3) The obsolescence is interrupted by each process action that is undertaken in order to prosecute the offender because of the committed crime.

(4) The obsolescence is interrupted also when the offender, at the time while this time period of obsolescence is still going on, commits

an equally severe or more severe crime.

(5) For each interruption, the obsolescence starts to run again from the beginning.

(6) The obsolescence of the criminal prosecution comes into effect in any case when a time period elapses which is twice as long as required by law for the obsolescence of the criminal prosecution.

### **Obsolescence of the execution of punishment**

#### **Article 109**

If with this Code it is not determined otherwise, the pronounced punishment may not be executed when the following has elapsed:

- 1) thirty years from a sentence to life imprisonment;
- 2) twenty years from a sentence to imprisonment of more than ten years;
- 3) ten years from a sentence to imprisonment of more than five years;
- 4) five years from a sentence to imprisonment of more than three years;
- 5) three years from a sentence to imprisonment of more than one year; and
- 6) two years from a sentence of imprisonment of up to one year, or to a fine.

### **Obsolescence of execution of secondary punishments and security measures alternative measures, confiscation of property and seizure of objects**

#### **Article 110**

(1) The obsolescence of execution of a fine as a secondary punishment sets in when two years expire after the day the sentence with which this punishment was pronounced comes into effect.

(2) The obsolescence of the execution of the security measures - compulsory psychiatric treatment and custody in a health institution, compulsory psychiatric treatment in freedom and compulsory treatment of alcoholics and drug-addicts, sets in when five years expire from the day the decision with which these measures were pronounced comes into effect.

(3) The obsolescence of the execution of the sanction involving a ban to perform the profession, activity or duty, the ban to operate a motor vehicle and the temporary eviction of a foreign person from the country, sets in upon expiration of the time period stipulated in the sentences.

(4) The alternative measures involving a work for general benefit and house arrest shall have reached their stature of limitations after the expiration of two years after the date of legal effectiveness of the judgment stipulating those measures.

(5) The execution of the special measures involving confiscation of property and objects does not reach stature of limitations.

### **Course and cessation of the obsolescence of the execution of the punishment**

#### **Article 111**

(1) The obsolescence of the execution of the punishment starts on the day the sentence comes into effect, and if a conditional sentence has been revoked, from the day when the decision on revoking comes into effect.

(2) The obsolescence does not run when according to the law, the execution of the punishment cannot be undertaken.

(3) The obsolescence is interrupted for each activity by the competent agency, undertaken for the execution of the punishment.

(4) For each interruption, the obsolescence starts to run from the beginning.

(5) The execution of a punishment becomes obsolete in any case when a time period elapses which is twice as long as required by law for the obsolescence of the execution of the punishment.

(6) The provisions from items 2 to 5, respectively, apply also for the obsolescence of the execution of security measures and the alternative measures.

### **No obsolescence for the crimes of genocide and war crimes**

#### **Article 112**

The criminal prosecution and the execution of punishment do not become obsolete for crimes foreseen in articles 403 to 407-b and 416-a, as well as for crimes for which no obsolescence is foreseen with ratified international conventions.

## **11. AMNESTY AND PARDON**

### **Amnesty**

#### **Article 113**

Persons included in an act of amnesty are awarded acquittal from prosecution, or full or partial acquittal from execution of the punishment, the pronounced punishment is substituted with a lighter punishment, they are prescribed an erasing of the sentence, or a certain legal consequence from the sentence is revoked.

### **Pardon**



**Article 114**

(1) With the pardon of an individually named person, he is awarded acquittal from prosecution, or full or partial acquittal from execution of the punishment, the pronounced punishment is substituted with a lighter punishment, or with an alternative measure, or he is prescribed an erasing of the sentence, or a certain legal consequence from the sentence or the security sanction is revoked, respectively it is determined that this should have a shorter duration.

(2) The pardon may determine the revoking or a shorter duration of the following sanctions - prohibition on performing a profession, an activity or a function; prohibition on driving a motor vehicle for offenders who are drivers by profession; and expulsion of a foreigner from the country.

**Action of the amnesty and pardon on the rights of third persons****Article 115**

The awarding of an amnesty or a pardon does not touch upon the rights of third persons that are based on the sentence.

**12. APPLICATION OF THE CRIMINAL LEGISLATURE ACCORDING TO THE PLACE OF PERPETRATION OF THE CRIME****Application of the criminal legislature to everyone who commits a crime on the territory of the Republic of Macedonia****Article 116**

(1) The criminal legislature is applicable to everyone who commits a crime on the territory of the Republic of Macedonia.

(2) The criminal legislature is also applicable to everyone who commits a crime on a domestic ship, regardless where the ship is at the time the crime is committed.

(3) The criminal legislature is also applicable to everyone who commits a crime in a domestic civil aircraft during flight, or on a domestic military aircraft, regardless where the aircraft is at the time the crime is committed.

**Application of the criminal legislature to certain crimes committed abroad****Article 117**

The criminal legislature is applicable to everyone who commits a crime abroad, from articles 305 to 326, or from article 268, if the forgery concerns domestic currency.

Application of the criminal legislature to a citizen of the Republic of Macedonia who commits a crime abroad

**Article 118**

The criminal legislature is also applicable to a citizen of the Republic of Macedonia when he commits some crime abroad, except for the crimes listed in article 117, if he finds himself on the territory of the Republic of Macedonia or is extradited.

**Application of the criminal legislature to a foreigner who commits a crime abroad****Article 119**

(1) The criminal legislature is applicable also to a foreigner who commits a crime outside the territory of the Republic of Macedonia but directed against her or against her citizen, also when this does not concern crimes listed in article 117, if he finds himself on the territory of the Republic of Macedonia or is extradited.

(2) The criminal legislature is also applicable to a foreigner who commits a crime abroad, against a foreign country or a foreigner, who according to that legislature may be sentenced to five years of imprisonment or to a more severe punishment, when he finds himself on the territory of the Republic of Macedonia, and when he is not extradited to the foreign country. If not otherwise determined by this Code, in such a case the court may not pronounce a punishment more severe than the punishment that is prescribed by law of the country in which the crime was committed.

**Special conditions of prosecution****Article 120**

(1) If in the cases from article 116, the criminal procedure is violated or completed in a foreign country, the prosecution in the Republic of Macedonia shall be initiated only after approval from the Public Prosecutor of the Republic of Macedonia.

(2) In the cases from articles 118 and 119, no prosecution shall be initiated if:

- 1) the offender has served out the punishment to which he was sentenced abroad;
- 2) a safety measure involving imprisonment has been applied with regard to the perpetrator abroad;
- 3) the offender was acquitted abroad with a sentence that has come into effect, or his punishment has become null and void or it was pardoned;
- 4) according to the foreign law a crime is prosecuted upon request from the damaged and no such request was submitted.

(3) In the cases from articles 118 and 119, prosecution shall be initiated only when the crime is punishable according to the law of the country in which the crime was committed. When in the cases from article 118 and article 119, item 1, there is no punishment for that crime according to the law in the country in which it was committed, prosecution may be initiated only after approval from the Public Prosecutor of the Republic of Macedonia.

(4) Only after approval from the Public Prosecutor of the Republic of Macedonia may prosecution be initiated in the Republic of Macedonia in the cases from article 119, item 2, regardless of the law of the country in which the crime was committed, if this concerns a crime which, at the time it was perpetrated, was considered to be a crime according to the general legal principles, recognized by the international community.

(5) In the cases from article 116, the prosecution of a foreigner may be handed over to a foreign country, under the condition of reciprocity.

### **Reckoning pre-trial confinement and a punishment served abroad**

#### **Article 121**

The pre-trial confinement, the arrest during the extradition procedure, as well as the sentence or the security measure involving imprisonment which the offender served according to a sentence by a foreign court, shall be reckoned in the punishment which shall be pronounced by the domestic court for the same crime, and if the punishments are not of the same kind, the reckoning shall be done according to the assessment of the court.

### **Application of the provisions of this code on the criminal sanctions pronounced abroad**

#### **Article 121-a**

When, based on an international agreement, the criminal sanction pronounced abroad, should be served in the Republic of Macedonia, the provisions stipulated in code regarding probationary discharge, rehabilitation, stature of limitations, amnesty and pardon shall be applied accordingly.

## **13. THE MEANING OF THE CONCEPTS IN THIS CODE**

### **Article 122**

(1) Criminal legislature of the Republic of Macedonia means the provisions stipulated in this Criminal Code and the provisions contained in the other laws.

(2) The territory of the Republic of Macedonia means the territory on dry land, the water surfaces inside its borders, as well as the airspace above them.

(3) The term military person means: military officers and assistant officers, professional soldiers, soldiers serving their military duty, cadets of the Military Academy, persons in charge of training and educating the officers, persons from the reserve composition, while they are called to perform rights and obligations in the field of defense regarding the performance of their military duty, as well as civil persons on duty in the Army of the Republic of Macedonia.

(4) An official person, when marked as a perpetrator of a crime, is considered to be:

- a) The President of the Republic of Macedonia, the appointed Ambassadors and other representatives of the Republic of Macedonia abroad and also appointed persons by the President of the Republic of Macedonia, elected or appointed official in and by the Parliament of the Republic of Macedonia, in the Government of the Republic of Macedonia, in the State administration, courts, the Public Prosecution Office, The Judicial Council of the republic of Macedonia, the Council of Public prosecutors of the Republic of Macedonia, and other bodies and organizations conducting professional, administrative and other activities within the rights and duties of the Republic, in the local self-government units, as well as persons who permanently or temporarily conduct official duty in these bodies and organizations.
- b) a civil servant performing expert, normative-legal, executive, administrative-supervisory works and administrative works in accordance with the Constitution and the law.
- c) an authorized person within a legal entity which by law or by some other enacted regulation based on the law is entrusted with performing public authority, when the performed the duty fall within the framework of that authority.
- d) a person performing certain official duties, based on the authorization given by law or by some other enacted regulations based on the law.
- e) a military person, when considering crimes in which an official person is pointed out as the perpetrator; and
- f) a representative of a foreign country or an international organization in the Republic of Macedonia.

(5) A foreign official, when indicated as perpetrator of a crime, shall be considered a person who in a foreign country, international organization or public institution, conducts some of the activities or duties specified in items a) to e) from paragraph 4.

(6) A legal entity shall mean: the Republic of Macedonia, units of local self-government, political parties, public enterprises, companies, institutions and other associations, funds, financial organizations, and other organizations specified by law, which are registered as legal entities, and other communities and organizations to which have been recognized as having the property of a legal entity. A foreign legal entity shall mean: a public enterprise, institution, fund, bank, company or any other form of organization in accordance with the laws of a foreign country pertaining to the performance of economic, financial, banking, trade, service or other activities, and which has a headquarters in another country or a branch office in the Republic of Macedonia or has been founded as an international association, fund, bank or institution.

(7) A responsible person within a legal entity shall be considered to be a person within the legal entity, who considering his/her function or based on special authorization in the legal entity, is entrusted with a certain circle of matters which concern the execution of legal regulations, or regulations that are enacted on the basis on a law or a general act of the legal entity, in the management, use and disposition of property, the management of the production or some other economic process, or the supervision over them. An official person is also considered to be a responsible person, when this concerns crimes where a responsible person is found to be perpetrator, and which crimes are not foreseen in the chapter on crimes against official duty, i.e. crimes by an official person foreseen in some other chapter of this Code. When this code specifically stipulates, a responsible person shall also be considered the person who performs a special function or an authorization or is entrusted to independently perform certain operations within the foreign legal entity, as well as the person which is a representative of the foreign legal entity within the Republic of Macedonia.

(8) When an official or responsible person is pointed out as the perpetrator, all the persons listed in paragraphs 4, 5, and 7 8 may be perpetrators of these crimes unless the legal features of the particular crime suggest that the perpetrator can be only one of these persons.

(9) A person performing works of public interests shall be considered to be the person who performs functions, duties or works of public, or general interest, such as: teacher, tutor, physician, social worker, journalist, notary, lawyer, or any other person who performs these works independently or within a legal entity which performs activities of public interest, or general interest, in accordance with the law.

(10) Elections and voting shall mean the elections for representatives of the citizens in the Parliament of the Republic of Macedonia and in the local self-government, for the President of the Republic of Macedonia, and the declaration of the citizens at a referendum.

(11) A document is any object that is suitable or designated to serve as proof of a fact that is of value for the legal relations. A public document is a document issued by a competent authority, organization, or a person performing works of public interest based on a law or another regulation based on the law.

(12) Money is means of payment in cash, in denomination or electronic money, which pursuant to law are circulating in the Republic of Macedonia or in a foreign country. .

(13) Marks of value also means foreign marks of value.

(14) Securities are: shares, bonds or other securities which are transacted on the basis of law of the Republic of Macedonia in the Republic of Macedonia or in a foreign country.

(15) Payment cards shall mean any type of means of payment issued by bank or other financial institutions, which contain electronic data for persons and electronically generated numbers, which enable performance of any type of financial transactions.

(16) Proceeds of crime means any property or benefit obtained directly or indirectly by committing the crime, including proceeds of crime committed abroad, under the condition that at the time when the crime was committed, it was considered a crime under the laws of the country where it was committed and a crime under the laws of the Republic of Macedonia.

(17) A movable object also means any produced or collected energy which provides light, heat or movement, as well as the telephone impulse and other means of transfer of voice, picture or text, over a certain distance or computer services.

(18) A force shall also mean the use of hypnosis and stunning instruments for the purpose of bringing a person, against his/her will into an state of unconsciousness or to incapacitate him/her to offer resistance.

(19) A social authority shall mean the centres for social work and other agencies that are founded by law to perform a social activity.

(20) A motor vehicle shall mean any vehicles of transportation with a motor engine, in land, water and air traffic.

(21) Family violence shall mean abuse, rude insults, threatening of the safety, inflicting physical injuries, sexual or other physical and psychological violence which causes a feeling of insecurity, being threatened, or fear towards a spouse, parents or children or other persons which live in a marital or other community or joint household, as well as towards a former spouse or persons which have a common child or are have close personal relations.

(22) A victim of a criminal offence shall imply every person who suffered some kind of damage, including physical or mental injuries, emotional suffering, material loss or other violation or endangerment of the person's fundamental rights and freedoms, as a consequence of the crime committed.

A child victim of a criminal offence shall imply a juvenile, under 18 years of age.

(23) The term "several persons" shall mean at least three persons or more who associated in order to commit crimes.

(24) Child pornography shall imply a pornographic material that visually depicts obvious sex activities with under age persons, or obvious sexual activities with a person who looks like a juvenile, or realistic photographs that depict obvious sexual activities with a juvenile.

(25) The term "family" shall mean the spouse, unmarried partner, children, parents, brothers and sisters, and other relatives with whom the person lives in a family union.

(26) A computer system shall imply any type of device or a group of interconnected devices, out of which, one or several of them, perform automatic processing of data, according to a certain program.

(27) Computer data shall imply presentation of facts, information or concepts of a kind that is appropriate for processing through a computer system, including the appropriate program, necessary to activate the computer system.

(28) A group, gang or other criminal association or an organization shall mean at least three persons which have formed an association for the purpose of committing crimes, including the organizer of the association.

(29) Court, judge and court procedure shall also mean an international court whose competence is recognized by the Republic of Macedonia, a judge a procedure before that court.

(30) Drunkenness shall mean a state of alcohol in the blood exceeding 1.5 gram per one thousand (‰).

(31) An explosive or other deadly device shall mean any type of weapon or explosive or flammable device, which can cause death, bodily harm or significant material damage, through physical injury, emitting and spreading harmful chemical materials, biological agents, toxic and similar substances, or radiation of radioactive materials, as well as any weapon or device created for that purpose.

(32) Public place shall mean buildings, parts of buildings, yards, structures where any commercial, cultural, official, educational, recreational and other activity is performed, as well as public roads, open spaces, water surfaces and other places open and accessible to an unlimited number of people.

(33) A smaller material gain, value or damage shall mean a gain, value or damage that corresponds to the amount of the officially announced average one-half monthly salary in the economy of the Republic of Macedonia, at the time when the crime was committed.

(34) A larger material gain, value or damage shall mean a gain, value or damage that corresponds to the amount of five average monthly salaries in the Republic of Macedonia, at the time when the crime was committed.

(35) A significant material gain, value or damage shall mean a gain, value or damage that corresponds to the amount of 50 average monthly salaries in the Republic of Macedonia, at the time when the crime was committed.

(36) A property gain, value or damage of a large scale shall mean a gain, value or damage that corresponds to the amount of 250 average monthly salaries in the Republic of Macedonia, at the time when the crime was committed.

(37) A net daily income shall mean a net compensation in the form of a salary or other compensations in addition to the salary pertaining to the working relation, as well as other net incomes from the performance of activities, effectuation of property and property rights. The net daily income shall be obtained after deducting the taxes or other liabilities specified by law. If the court can not determine the net daily income in this way or if the determination of the net income will cause a significant delay in the procedure, the net daily income shall be calculated on the basis of the daily earnings according to the average salary in the Republic of Macedonia for the last three months before the judgment has been passed.

(38) The term "property" shall mean money or other instruments for payment, securities, deposits, other property of any kind, tangible or non-tangible, movable or immovable, other rights to items, claims, as well as public documents and legal documents for ownership and operational assets in written or electronic form, or instruments which prove the right to ownership or interest in such property.

(39) The term "items" shall mean movable or immovable items which are fully or partially used or should have been used or resulted from committing a crime.

## **SPECIAL PART**

### **14. CRIMES AGAINST LIFE AND BODY**

#### **Murder**

##### **Article 123**

(1) A person who takes the life of another shall be punished with imprisonment of at least five years.

(2) The following person shall be punished with at least ten years or with life imprisonment, who:

- 1) takes the life of another in a cruel or treacherous manner;
- 2) takes the life of another while performing family violence;
- 3) takes the life of another and hereby, with intent, brings in danger the life of another person;
- 4) takes the life of another for self-interest, because of committing or covering up some other crime, for ruthless revenge or for other low motives.
- 5) takes the life of another on order;
- 6) takes the life of a female person, knowing that she is pregnant;
- 7) takes the life of an official or military person, while they are performing work on public or state security, or on duty guarding the public order, catching a perpetrator of a crime, or guarding a person under arrest.

(3) A person who with intent will take life of two or more persons, for which he hasn't been charged previously will be punished with a at least ten years or with life imprisonment, unless if it is not a criminal act upon article 9 line 3, article 10 line 3 and articles 124,125 and 127.

#### **Murder with noble motives**

**Article 124**

A person who takes the life of another with noble motives shall be punished with imprisonment of six months to five years.

**Momentary murder****Article 125**

A person who takes the life of another momentarily, brought into a state of strong irritation or as a consequence of family violence without his own fault, by an attack or with heavy insult from the murdered person, shall be punished with imprisonment of one to five years.

**Murder from negligence****Article 126**

A person who takes the life of another from negligence shall be punished with imprisonment of six months to five years.

**Murder of a child at birth****Article 127**

(1) A mother that takes the life of her child at birth or directly after giving birth, in a state of derangement caused by the birth, shall be punished with imprisonment of three months to three years.

(2) The attempt is punishable.

**Instigation to suicide and helping in suicide****Article 128**

(1) A person who instigates another to suicide or helps him in committing suicide, and this was committed, shall be punished with imprisonment of three months to three years.

(2) If the crime from item 1 is committed against a juvenile who reached the age of fourteen or against a person who is in a state of decreased mental competence, the offender shall be punished with imprisonment of one to ten years.

(3) If the crime from item 1 is committed against a juvenile who has not reached the age of fourteen years yet, or against a mentally incompetent person, the offender shall be punished according to article 123.

(4) A person behaving cruelly or inhumanely towards another who has a subordinate or dependent relationship to him, and if this person commits suicide because of this relationship, which could be attributed to negligence by the offender, shall be punished with imprisonment of six months to five years.

(5) If because of the crimes from items 1 to 4 the suicide was only attempted, the court may punish the offender more leniently.

**Unlawful interruption of a pregnancy****Article 129**

(1) A person who in contrary to regulations about the interruption of a pregnancy, with the consent from a pregnant woman performs, starts to perform or helps in performing an interruption of a pregnancy, shall be punished with imprisonment of three months to three years.

(2) A person who is engaged in performing the crime from item 1 shall be punished with imprisonment of one to five years.

(3) A person who, without the consent from a pregnant woman, performs or starts to perform an interruption of a pregnancy, shall be punished with imprisonment of one to five years.

(4) If because of the crime from items 1, 2 and 3, a major deterioration of the health or the death of the pregnant woman sets in, the offender shall be punished for the crime from item 1 with imprisonment of six months to five years, and for the crime from items 2 and 3, with imprisonment of at least one year.

**Body injury****Article 130**

(1) A person who injures bodily another, or damages his health, shall be punished with a fine, or with imprisonment of up to one year.

(2) The person who commits the crime stipulated in paragraph 1 while performing family violence, shall be sentenced to imprisonment from six months to three years.

(3) The court may sentence the perpetrator of the crime from item 1 to a court reprimand, if he was provoked with especially insulting or

rude behavior by the damaged person.

(4) The prosecution for the crime from item 1 is undertaken upon a private suit.

### **A grave body injury**

#### **Article 131**

(1) A person who gravely injures bodily another, or damages gravely his health, shall be punished with imprisonment of six months to five years.

(2) The person who commits the crime stipulated in paragraph 1 while performing family violence, shall be sentenced to imprisonment from one to five years.

(3) A person who gravely injures bodily another or damages gravely his health and if because of this the life of the injured person is brought into danger, or a vital part of the body or some important organ is destroyed, or is damaged permanently or to a significant extent, or a permanent disability for work is caused, in general or for the work for which he is trained, his health is damaged permanently or gravely, or he becomes disfigured, - shall be punished with imprisonment of one to ten years.

(4) If because of the grave body injury from items 1 and 2 the injured person dies, the offender shall be punished with imprisonment of at least one year.

(5) A person that commits the crime from paragraphs 1 to 3 from negligence, shall be punished with a fine, or with imprisonment of up to three years.

(6) A person that commits the crime momentarily, brought without his guilt into a state of great irritation by an attack or grave insult or as a consequence of family violence by the damaged, shall be punished for the crime from paragraphs 1 and 2 - with a fine or with imprisonment of up to three years, and for the crime from paragraphs 3 and 4- with imprisonment of one to five years.

### **Participation in a brawl**

#### **Article 132**

(1) A person participating in a brawl in which another lost his life or another sustained a grave body injury, shall be punished with imprisonment of three months to three years.

(2) A crime from item 1 does not exist for a person who was drawn into a brawl without his own will, or was only separating the other participants in the brawl.

### **Threatening with a dangerous instrument during a brawl or a quarrel**

#### **Article 133**

A person who draws a gun or a dangerous instrument during any kind of brawl or quarrel, with which he could harm the body gravely, or damage the health gravely, shall be punished with a fine, or with imprisonment of up to six months.

### **Exposure to danger**

#### **Article 134**

(1) A person who leaves another without help, in a state dangerous to life, and which he has caused himself, shall be punished with imprisonment of three months to three years.

(2) If the person exposed to danger because of this loses his life, or becomes gravely bodily injured, or his health becomes gravely damaged, the offender shall be punished with imprisonment of one to five years.

### **Deserting a feeble person**

#### **Article 135**

(1) A person, who was entrusted or who is obliged to take care of a feeble person, and who leaves him without help under circumstances dangerous to life or to health, shall be punished with imprisonment of three months to three years.

(2) If the deserted person loses its life because of this, or is severely bodily injured, or his health is severely damaged, the offender shall be punished with imprisonment of one to five years.

### **Not giving help**

#### **Article 136**

A person who does not give help to a person who finds himself in a situation dangerous for life, even though he could have done this without the danger to himself or to others, shall be punished with a fine, or with imprisonment of up to one year.

## **15. CRIMES AGAINST THE FREEDOMS AND RIGHTS OF HUMANS AND CITIZENS**

### **Injury to the equality of citizens**

#### **Article 137**

(1) A person who, based on a difference in gender, race, color of skin, national and social origin, political and religious belief, wealth and social position, the language or other personal characteristics or circumstances, takes away or limits the rights of humans and citizens, determined by the Constitution, by law or by ratified international covenant, or who based on all these differences gives citizens favors in contrary to the Constitution, some law or international ratified covenant, shall be punished with imprisonment of three months to three years.

(2) If the crime from item 1 is committed by an official person while performing his duty, he shall be punished with imprisonment of six months to five years.

(3) If the crime stipulated in this article is committed by a legal entity, it will be fined.

### **Violation of the right to use the language and the alphabet**

#### **Article 138**

(1) A person who takes away or limits the right of the citizens to use the language and the alphabet, guaranteed by the Constitution, by law or by international covenant, shall be punished with imprisonment of three months to three years.

(2) If the crime from item 1 is committed by an official person while performing his duty, he shall be punished with imprisonment of six months to five years.

(3) If the crime stipulated in this article is committed by a legal entity, it will be fined.

### **Coercion**

#### **Article 139**

(1) A person, who by force or with a serious threat forces another to commit, not to commit, or to endure something, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime stipulated in paragraph 1 is committed while performing family violence, the perpetrator shall be sentenced to imprisonment from six months to three years.

(3) If the crime from item 1 is committed by an official person while performing his duty, he shall be punished with imprisonment of six months to five years.

(4) Prosecution for the crime stipulated in paragraph (1) is undertaken upon a private suit.

### **Unlawful arrest**

#### **Article 140**

(1) A person who unlawfully arrests, keeps detained, or in some other way takes away or limits the freedom of movement of another, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime stipulated in paragraph 1 is committed while performing family violence, the perpetrator shall be sentenced to imprisonment from six months to three years.

(3) The attempt is punishable.

(4) If the unlawful arrest is performed by an official person, by misusing the official position or authorization, he shall be punished with imprisonment of six months to five years.

(5) If the unlawful arrest lasted longer than thirty days, or if it was performed in a cruel manner, or if the health of the unlawfully arrested person was seriously damaged because of this, or if some other serious consequences set in, the offender shall be punished with imprisonment of one to five years.

(6) If the person unlawfully arrested lost his life because of this, the offender shall be punished with imprisonment of at least four years.

### **Kidnapping**

#### **Article 141**

(1) A person that commits a kidnapping of another, with the intention to force him or someone else to commit, not to commit or to endure something, shall be punished with imprisonment of one to ten years.

(2) A person that commits the crime from item 1 against a juvenile, or the person who in order to achieve the aim of the kidnapping from item 1 threatens to kill the kidnapped person, or to inflict grave bodily injury, shall be punished with imprisonment of at least four years.

(3) The offender of the crime from items 1 and 2, who of own volition frees the kidnapped person before the demand is realized because of which he committed the kidnapping, may be acquitted from punishment.

### **Torture and other cruel, inhuman or humiliating activities and punishments**

#### **Article 142**

(1) A person who while performing his duty, as well as a person instructed by an official person or based on an agreement of the official person, shall apply force, threat or some other illicit instrument or an illicit manner with the intention to force a confession or some other statement from a defendant, a witness, an expert witness or from some other person, or will inflict on another person severe bodily or mental suffering in order to punish the other person for a crime which the other person has committed or for which the other person or some other person is under suspicion, or to intimidate him/her or to force him/her to forfeit some of his/her rights, or shall cause such suffering due to any kind of discrimination, shall be punished with imprisonment for three to eight years.

(2) If, due to the activities stipulated in paragraph 1, the damaged party has come to severe bodily harm or other especially severe consequences, the perpetrator shall be punished with imprisonment for at least four years.

### **Mistreatment in performing a duty**

#### **Article 143**

A person who while performing his duty mistreats another, frightens him, insults him, or in general, behaves towards him in a manner in which the human dignity or the human personality is humiliated, shall be punished with imprisonment for one to five years.

### **Endangering security**

#### **Article 144**

(1) A person who endangers the security of another by a serious threat to attack his life or body, or the life and body of some person close to him, shall be punished with a fine, or with imprisonment of up to six months.

(2) The person that will commit the activity stipulated in paragraph 1, while performing family violence shall be sentenced to imprisonment from three months to three years.

(3) The sanction stipulated in paragraph (2) shall be applied to the person that commits the crime stipulated in paragraph 1 against an official person while performing his duty, or towards several persons.

(4) The person who, by way of an information system will threaten to commit a crime for which a sanction of imprisonment of five years or a more severe sanction has been prescribed, against another person due to their national, ethnic, racial or religious background, shall be sentenced to imprisonment from one to five years.

(5) The prosecution of the crime from paragraph (1) is undertaken upon private suit.

### **Violation of the inviolability of the home**

#### **Article 145**

(1) A person who without authorization enters another's home, or closed or fenced in area that belongs to that home, or private business premises that are designated as such, or if he does not remove himself from there upon the request from the authorized person, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 of this article is committed by an official person while performing his duty, he shall be punished with imprisonment of six months to five years.

(3) The attempt of the crimes from items 1 and 2 is punishable.

(4) The prosecution of the crime from item 1 is undertaken upon a private suit.

### **Unlawful search**

#### **Article 146**

(1) A person who performs an unlawful search of another, of a home, of a closed or fenced in area that belongs to the home, or of business premises, shall be punished with a fine, or with imprisonment of up to one year.

(2) An official person who while performing his duty performs an unlawful search shall be punished with imprisonment of six months to five years.



- (3) The attempt of the crimes from items 1 and 2 is punishable.
- (4) The prosecution of the crime from item 1 is undertaken upon private suit.

### **Violation of confidentiality of letters or other parcels**

#### **Article 147**

- (1) A person who without a court decision or without the consent from the person they are sent to, opens someone else's letter, telegram, some other closed message in writing or parcel, or secured electronic mail, or in some other way violates their confidentiality, or withholds, covers up, destroys or hands over to a third person a letter, telegram, a closed message in writing or a parcel, or secured electronic mail, shall be punished with a fine or with imprisonment of up to six months.
- (2) A person who informs another about the secret he found out by violating the confidentiality of another's letter, telegram or some other closed message in writing or parcel, or secured electronic mail, or who uses this secret, with the intention of attaining some benefit for himself or for another, or to inflict harm to another, shall be punished with a fine, or with imprisonment of up to one year.
- (3) If the crime from items 1 and 2 is committed by an official person while performing his duty, he shall be punished for the crime from item 1 with imprisonment of three months to three years, and for the crime from item 2 with imprisonment of three months to five years.
- (4) The prosecution of the crime from items 1 and 2 is undertaken upon private suit.

### **Unauthorized publication of personal notes**

#### **Article 148**

- (1) A person who publishes a diary, a letter or some other personal note without the permission from the author, in the cases when such a permission is required, shall be punished with a fine, or with imprisonment of up to one year.
- (2) If the crime stipulated in this article is committed by a legal entity, it shall be fined with a monetary fine.
- (3) The prosecution is undertaken upon private suit.

### **Misuse of personal data**

#### **Article 149**

- (1) A person who collects processes or uses personal data from a citizen without his permission, contrary to the conditions determined by law, shall be punished with a fine, or with imprisonment of up to one year.
- (2) The punishment from item 1 shall apply to a person who penetrates a computerized information system of personal data, with the intention of using them in order to attain some benefit for himself or for another, or to inflict some harm upon another.
- (3) If the crime from items 1 and 2 is committed by an official person while performing his duty, he shall be punished with imprisonment of three months to three years.
- (4) The attempt is punishable.
- (5) If the crime stipulated in this article is committed by a legal entity, it shall be fined with a monetary fine.

### **Prevention of access to a public information system**

#### **Article 149-a**

- (1) The person who without authorization prevents or restricts another with regard to access to a public information system, shall be fined or sentenced to imprisonment of up to one year.
- (2) If the crime stipulated in paragraph 1 is committed by an official person while performing his/her duty or a responsible person within a public information system, this person shall be fined or sentenced to imprisonment from three months to three years.
- (3) If the crime specified in this Article is committed by a legal entity, the legal entity shall be subject to a fine.
- (4) The prosecution shall be performed on the basis of a private complaint.

### **Unauthorized disclosure of a secret**

#### **Article 150**

- (1) A lawyer, notary, defense counsel, doctor, midwife or some other health worker, psychologist, religious confessor, social worker or some other person who, unauthorized, discloses a secret he discovered while performing his profession, shall be punished with a fine, or with imprisonment of up to one year.
- (2) The crime from item 1 does not exist if the secret was disclosed in general interest, or in the interest of some other person, when this

has higher priority than the interest of keeping the secret.

(3) If the crime specified in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(4) The prosecution is undertaken upon private suit.

### **Unauthorized tapping and audio recording**

#### **Article 151**

(1) A person who by using special appliances without authorization taps or records on audio a conversation or a statement which is not intended for him, shall be punished with a fine, or with imprisonment of up to one year.

(2) The punishment from item 1 shall apply to a person who enables an unauthorized person to become informed about a conversation or a statement which is tapped or recorded on audio.

(3) The punishment from item 1 shall also apply to a person who records on audio a statement that is intended for him, without the knowledge of the person giving the statement, with the intention of misusing it or to pass it on to third persons, or to the person who directly passes such a statement on to third parties.

(4) If the crime from items 1, 2 and 3 is committed by an official person while performing his duty, he shall be punished with imprisonment of three months to three years.

(5) The official person stipulated in paragraph (4) which has committed the crime in accordance with an order of a superior and has reported the case before finding out that a criminal procedure has been initiated against him/her, shall be acquitted.

(6) If the crime specified in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(7) The prosecution of the crime from items 1, 2 and 3 is undertaken upon private suit.

### **Unauthorized recording**

#### **Article 152**

(1) A person who without authorization makes photographs, film or video recordings of another or this person's personal premises, without his consent, and by violating this person's privacy, or the person who directly transfers these recordings to a third person, or shows them, or in some other way enables him to know about them, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 is unlawfully committed by an official person when performing his duty, he shall be punished with imprisonment of three months to three years.

(3) If the crime specified in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(4) The prosecution of the crime from item 1 is undertaken upon private suit.

### **Violation of the right to submit a legal means**

#### **Article 153**

(1) A person who prevents another in using his right to defense, to submit a complaint or some other legal means, by force or by serious threat, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 is committed by an official person by misusing his official position or authorization, he shall be punished with imprisonment of three months to three years.

(3) If the crime specified in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(4) The prosecution of the crime from item 1 is undertaken upon private suit.

### **Preventing the printing and distribution of printed matters**

#### **Article 154**

(1) A person, who by force or by serious threat prevents the printing, sale and distribution of books, magazines, newspapers or other printed matter, shall be punished with a fine, or with imprisonment of up to one year.

(2) The punishment from item 1 shall apply to a person who unlawfully prevents the broadcasting, sale and distribution of recorded material.

### **Preventing or hindering a public gathering**

**Article 155**

(1) A person who by force, serious threat, deceit or in some other manner prevents or hinders the convening or the holding of a peaceful public gathering, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 is committed by an official person by misusing his official position or authorization, he shall be punished with imprisonment of three months to three years.

**Violation of the right to strike****Article 156**

(1) A person who by force or by serious threat takes away or limits the right to strike of another, shall be punished with a fine, or shall be imprisoned up to one year.

(2) If the crime specified in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

**Violation of an author's right and related rights****Article 157**

(1) A person who in his own name or in the name of another unauthorized publishes, shows, reproduces, distributes, performs, transmits or in some other way unauthorized encroaches upon the author's right or some related right of another, respectively author's work, performance, or object of related right, shall be punished with imprisonment of six months to three years.

(2) The person who has committed the crime specified in paragraph 1 by using a computer system shall be punished with imprisonment of six months to three years.

(3) A person who attained a larger property gain from the crime from item 1 shall be punished with imprisonment thereof six months to five years.

(4) A person who attained a significant property gain from the crime from item 1 shall be punished with imprisonment of one to five years.

(5) The attempt is punishable.

(6) The copies of copyrighted works and the objects of the related rights, as well as the instruments for their reproduction shall be confiscated.

(7) If the crime stipulated in this article is committed by a legal entity, it will be sentenced with a fine

(8) The prosecution for violation of a moral right is undertaken upon a proposal.

**Violation of the rights of distributors of technically and specially protected satellite signals****Article 157-a**

(1) Any person who, without approval by the authorized distributor of technically and specially protected satellite signal, produces, imports, distributes, rents or in any other manner provides such signal at disposal to the public, i.e. provides services of installation of a material or non-material device or system in order to brake such a signal, shall be sentenced to imprisonment of six months, up to three years.

(2) If the crime referred to in paragraph (1) has yielded significant proceeds or resulted in significant damage, the person shall be sentenced to imprisonment of one, up to five years.

(3) Any person who receives technically and specially protected satellite signal, whose protection has been broken without an approval of its authorized distributor or performs further distribution of such a signal, shall be sentenced to imprisonment of six months, up to three years.

(4) If the crime referred to in paragraph (3) has yielded significant proceeds or resulted in significant damage, the person shall be sentenced to imprisonment of one, up to five years.

(5) If the crime referred to in this article has been committed by a legal entity, it shall be punished with a monetary fine.

(6) The items and objects that were intended or used to commit the crime, or were created by committing the crime shall be seized.

**Piracy of audiovisual products****Article 157-b**

(1) Any person who, without approval by the film producer or the authorized distributor to whom the film producer transferred his right to the audiovisual product, produces, imports, reproduces, distributes, stores, rents, trades in or in any other manner provides such products

at disposal to the public, or undertakes other activities for the purpose of distribution, renting, public screening, trading, placing at disposal to the public or in any other manner unlawfully uses the audiovisual product, i.e. the video material or its unauthorized copies, shall be sentenced to imprisonment of six months, up to three years.

(2) If the crime referred to in paragraph (1) has yielded significant proceeds or resulted in significant damage, the person shall be sentenced to imprisonment of one, up to five years.

(3) If the crime referred to in this article has been committed by a legal entity, it shall be punished with a monetary fine.

(4) The items and objects that were intended or used to commit the crime, or were created by committing the crime shall be seized.

### **Piracy of phonograms**

#### **Article 157-c**

(1) Any person who, without approval by the phonogram producer or the association for collective protection of rights of phonogram producers, produces, reproduces (copies), distributes, stores, rents, trades in or in any other manner provides such products at disposal to the public, or undertakes other activities for the purpose of distribution, renting, trading, placing at disposal to the public or in any other manner unlawfully uses the phonogram or its unauthorized copies, shall be sentenced to imprisonment from six months, up to three years.

(2) If the crime referred to in paragraph (1) has yielded significant proceeds or resulted in significant damage, the person shall be sentenced to imprisonment, from one, up to five years.

(3) If the crime referred to in this article has been committed by a legal entity, it shall be punished with a monetary fine.

(4) The items and objects that were intended or used to commit the crime or were created by committing the crime shall be seized.

## **16. CRIMES AGAINST ELECTIONS AND VOTING**

### **Preventing elections and voting**

#### **Article 158**

(1) A person who by using force, serious threat or in some other way makes impossible or prevents the holding of elections or voting, or makes impossible or prevents the determining or publication of the results from the voting, shall be punished with imprisonment of at least three years.

(2) The person who will commit the crime stipulated in paragraph (1) by the use of weapons, explosive or other dangerous devices, by applying violence towards two or more persons or within an organized group, or on the area of two or more election locations, shall be sentenced to imprisonment of at least five years.

### **Violation of the voting right**

#### **Article 159**

(1) A member of an electoral organ, or some other official person who in the performing of his duty in connection with elections or voting, with the intention of making it impossible for another to execute his electoral right, unlawfully does not register him in the voting list or in the list of candidates, or erases him from a voting list or from a list of candidates, or in some other way deprives the voter of the right to elect, to be elected, or to vote, shall be punished with imprisonment of at least three years.

(2) The punishment from item 1 shall also apply to a member of an electoral board, electoral commission, or board for conducting a referendum, or some other official person, who in the performing of his duty in connection with the elections or voting enables another in an unlawful manner to use the voting right, even though knowing that this person does not have such a right.

### **Violation of the voter's freedom of choice**

#### **Article 160**

(1) A person who by using force, serious threat, deceit or in some other manner prevents or forces another from realizing, not realizing, or realizing his voting right in a specific sense, shall be punished with imprisonment of at least three years.

(2) If the crime from item 1 is committed by a member of an electoral organ, or some other official person, when performing his duty in connection with the elections or voting, he shall be punished with imprisonment of at least five years.

### **Misuse of the voting right**

#### **Article 161**

(1) A person who, at elections or in voting, votes instead of another or votes more than once, shall be punished with imprisonment of at least three years.

(2) The punishment from item 1 shall apply also to a person who participates in elections or voting even though he knows he does not have a voting right.

### **Bribery at elections and voting**

#### **Article 162**

(1) A person who offers, gives or promises a present or some other benefit to a person with voting right, with the intention of attracting this person to perform his/her voting right, not to perform his/her voting right, or to perform it in a certain sense, shall be punished with imprisonment of at least five years.

(2) The punishment from item 1 shall also apply to a person with voting right who requests for himself a present or some other benefit, or who receives a present or some other benefit, in order to perform his voting right, not to perform his voting right, or to perform it in a certain sense.

(3) If the gain is of a lesser value, the perpetrator shall be sentenced with a fine or imprisonment of up to one year.

(4) If the crime stipulated in this article is committed by a legal entity, it will be sentenced with a fine.

### **Violation of the confidentiality of voting**

#### **Article 163**

(1) A person who violates confidentiality at elections or at voting shall be punished with imprisonment of at least three years.

(2) If the crime from item 1 is committed by a member of an electoral organ, or some other official person, when performing his duty in connection with the elections or voting, he shall be punished with imprisonment of at least five years.

(3) The punishment from item 2 shall apply also to a person who by using force, serious threat, or by using the official, work or economic dependence and in some other manner, obtains from another to tell him whether he had voted, or how he had voted.

### **Destruction of electoral material**

#### **Article 164**

(1) A person who destroys, covers up, damages, changes or in any other way makes unusable a document, book or papers which serves in the elections or in the voting, shall be punished with imprisonment of at least three years.

(2) If the crime from item 1 is committed by a member of an electoral organ, or some other official person, when performing his duty in connection with the elections or voting, he shall be punished with imprisonment of at least five years.

(3) If the crime was committed by a group, with use of weapons or violence, the perpetrator shall be punished by imprisonment of at least five years.

### **Electoral deceit**

#### **Article 165**

A member of an electoral organ, or some other official person, when performing his duty in connection with the elections or voting, who during elections or voting changes the number of the cast votes by adding or subtracting one or more voting papers, or changes the number of votes during counting or when announcing the results from the elections or voting, by adding or subtracting one or more votes, shall be punished with imprisonment of at least five years.

### **Abuse of election campaign funds**

#### **Article 165-a**

(1) An organizer of election campaign who by not reporting the source of the election campaign funding, by preventing the supervision over the expenditure of planned funds, by not submitting report on the funds spent, by violating the legal limitations for authorized funds for election campaign, by using unauthorized funds for election campaign, by payments contrary to the campaign for campaign funding or in other way abuses his/her determined by law authorization as campaign organizer, will be punished with imprisonment of at least five years.

(2) The sentence prescribed in paragraph (1) of this article shall be pronounced for the responsible person with the legal entity who, by not reporting donations and other financing for an electoral campaign, by preventing the supervision over financing or aiding in another way in an election campaign, by not submitting financial statement or by giving false or incomplete data about given donations or other means, by violation of the lawful limitations regarding means allowed for election campaigns, by provision of illicit means for election campaign, by payments opposite to the purpose of financing the campaign or in another way abuses the authorizations prescribed by law.

(3) The person who, opposite to the limitations prescribed by law, secretly donates an amount above the legal maximal amount for

another election campaign or one in which he/she participates, shall be subject to a fine or imprisonment of up to three years.

(4) If the crime is committed by a legal entity, the legal entity shall be subject to a fine.

(5) The illicitly obtained means shall be confiscated.

### **Compulsory pronouncement of the sentence prohibition to perform a profession, activity or duty**

#### **Article 165-b**

For the crimes specified in Articles 158 through 165-a of this Code the Court shall determine a sentence for the perpetrator prohibition to perform profession, activity or duty under the conditions prescribed in Article 38-a of this Code.

## **17. CRIMES AGAINST WORK RELATIONS**

### **Violation of the rights from a work relationship**

#### **Article 166**

(1) A person who consciously does not abide by the law, some other regulation or the collective agreement, about the establishing or terminating of a work relationship, about the salary and reimbursements from the salary, the work time, rest or absence, protection of the woman, the youth and the disabled persons, or about the prohibition of overtime or night work, and who herewith violates, takes away or limits the right which belongs to the worker, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime stipulated in this article is committed by a legal entity, it will be sentenced with a fine.

### **Violation of the right of social security**

#### **Article 167**

(1) A person who consciously does not abide by the law, some other regulation or the collective agreement, about the health, pension and disability insurance, and other kinds of social security, and who herewith violates, takes away or limits the right which belongs to the worker, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime stipulated in this article is committed by a legal entity, it will be sentenced with a fine.

### **Misuse of the rights from social security**

#### **Article 168**

A person who, by simulation or by causing an illness or incapability for work, realizes a right to health, pension and disability insurance and other kinds of social security, which he does not have according to law, some other regulation or collective agreement, shall be punished with a fine, or with imprisonment of up to one year.

### **Violation of the rights during a temporary unemployment**

#### **Article 169**

A person who by abuse of official duty consciously does not abide by the law, some other regulation or a collective agreement, regarding the rights of citizens during temporary unemployment, and who herewith violates, takes away or limits a right that belongs to another, shall be punished with a fine, or with imprisonment of up to one year.

### **Not undertaking measures for protection at work**

#### **Article 170**

(1) A responsible person in a legal entity who consciously does not abide by the law, some other regulation or the collective agreement regarding measures for protection at work, shall be punished with a fine, or with imprisonment of up to one year.

(2) When pronouncing a conditional sentence, the court may order the offender to act, within a determined time period, in conformity with the regulations regarding the measures of protection at work.

(3) If the crime stipulated in this article is committed by a legal entity, it will be sentenced with a fine.

### **Violation of the right to participate in management**

#### **Article 171**

(1) A person, who by violating regulations or general acts takes away or limits the right of another to participate in the management of a legal entity, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime stipulated in this article is committed by a legal entity, it will be sentenced with a fine.

## **18. CRIMES AGAINST HONOR AND REPUTATION**

### **Defamation**

#### **Article 172**

(1) A person who expresses or spreads some untruth about another, which is harmful for his honor and reputation, shall be punished with a fine.

(2) If the untruth that is expressed or spread is of such significance that it caused severe consequences for the life and health of the damaged or a person close to him/her, the offender shall be punished with imprisonment of three months to three years.

(3) A defendant shall not be sanctioned for slander if hi/she proves the truth of his statement, or if he/she proves that he/she had a founded reason to believe in the truthfulness of what he/she had stated or spread.

(4) A person who falsely expresses or spreads about another that he has committed a crime which is prosecuted in the line of duty, shall be punished for defamation, even though he had had founded reason to believe in the truthfulness of what he expressed or spread, if the expression or spreading is not done under the conditions from article 176, item 2. The truthfulness of the fact that another has committed a crime for which he is prosecuted in line of duty may be proved only with a sentence that has come into effect, and with other evidence only if the prosecution of the trial is not possible or is not allowed.

### **Insult**

#### **Article 173**

(1) A person who insults another shall be punished with a fine.

(2) The person who exposes another person to mockery through an information system, because of his or hers membership in a group of a different race, skin color, nationality or ethnic origin, or will expose to mockery the entire group of people who have such characteristics, shall be punished with a fine or imprisonment of up to one year.

### **Expressing personal or family circumstances**

#### **Article 174**

(1) A person who expresses or spreads something from the personal or family life of some person which is harmful for the reputation of that person, shall be punished with a fine.

(2) If what is expressed or spread is of such significance that it caused severe consequences for the life and health of the damaged or a person close to him/her, the offender shall be punished with imprisonment of three months to three years.

(3) The truthfulness or falsehood of what is being expressed or spread in regard to the personal or family life of some person cannot be proven, except in the case of article 176, item 3.

### **Slight with reproach about a crime**

#### **Article 175**

(1) A person who intending to slight another, reproaches him that he has committed some kind of crime, or that he has been sentenced for some kind of crime, or he expresses this to another with the same intention, shall be punished with a fine, or with imprisonment of up to three months.

### **No punishment of crimes from articles 172 to 175**

#### **Article 176**

(1) No sanction shall be applied against a person who behave insultingly towards another person in a scientific, literary or artistic work, in a serious piece of critics, in performing an official duty, journalist, political or some other social activity, as defense of the freedom of public expression of thought or other justified interests, if it can be concluded that from the manner of expression or from other circumstances, this does not have the meaning of an insult or that its had not caused a significant damage to the honor and the reputation of the person.

(2) In cases referred to in paragraph (1), the person will not be punished for slander if he or she reports on something that was publicly announced by another person, as well as the person who has been prevented from practicing the right of access to public information, to which the person refers in his or hers defense, contrary to the regulations for free access to information.

(3) In the cases from item 1, a person shall not be punished who expresses or spreads about another that he has committed a crime which is prosecuted in line of duty even though there is no sentence that has come into effect (article 172, item 4), if he proves that he had grounds to believe in the truthfulness of what he expressed or spread.

(4) For the expression or spreading of personal or family circumstances, committed in the cases stipulated in paragraph (1), the perpetrator shall not be punished if he/she proves the truthfulness of his/her statement, or if he/she can prove that he/she had a founded

reason to believe in the truthfulness of what he expressed or spread.

(5) No sanction shall be applied against a person who blames another person saying that the other person has committed a crime or that the other person has been prosecuted for a crime in the defence of a certain right or protection of a public interest.

### **Pronouncing a court reprimand or acquittal for crimes from articles 172 to 175**

#### **Article 177**

(1) The court may pronounce a court reprimand to the perpetrator of a crime from articles 172 to 175, if was provoked with an indecent or rude behavior by the damaged.

(2) If the insulted person returned the insult, the court may punish both or one side or it may pronounce a court reprimand.

(3) If the perpetrator has apologized to the damaged party before the court in the cases regarding the activities stipulated in articles 172, paragraph 1, 173, paragraph 1, 174, paragraph 1, and 175 and in the cases of the crimes stipulated in the articles 172, paragraph 1 and 174, paragraph 1 and if before the court has recalled its expression or judgments, the perpetrator shall be released from a sentence.

### **Offending the reputation of the Republic of Macedonia**

#### **Article 178**

A person, who with the intention to ridicule shall publicly make a mockery of the Republic of Macedonia, its flag, arm or anthem, shall be punished with imprisonment of three months to three years.

### **Ridiculing the Macedonian people and the ethnicities**

#### **Article 179**

A person, who with the intention to ridicule shall publicly make a mockery of the Macedonian people and the ethnicities, shall be punished with imprisonment of three months to three years.

### **Offending the reputation of the court**

#### **Article 180**

A person who in a procedure before the court ridicules the court, the judge or the jury-judge, or who commits this in a written submitted paper to the court, shall be punished with a fine, or with imprisonment of up to one year.

### **Offending the reputation of a foreign state**

#### **Article 181**

A person, who with the intention to ridicule shall publicly make a mockery of a foreign state, its flag, arm or anthem, or the head of a foreign state or a diplomatic representative of a foreign state in the Republic of Macedonia, shall be punished with a fine, or with imprisonment of up to three years.

### **Offending the reputation of an international organization**

#### **Article 182**

A person, who with the intention to ridicule shall publicly make a mockery of the international organization, or its representatives, shall be punished with a fine, or with imprisonment of up to three years.

### **Prosecution for crimes against the reputation of a foreign state and an international organization**

#### **Article 183**

The prosecution of crimes from articles 181 and 182 is undertaken upon request from the foreign state, respectively the international organization, and after permission from the Minister of Justice.

### **Prosecution of crimes against the honor and reputation**

#### **Article 184**

(1) The prosecution of crimes from articles 172 to 175 is undertaken upon private suit.

(2) If the crimes from articles 172, 173 and 174 are committed against, the person adopting another, the person adopted or another person with whom the deceased person has lived together in the same household the prosecution is undertaken upon private suit from the marital partner, the children, parents, brothers or sisters of the deceased person.

### **Publication of a court sentence**

#### **Article 185**



When sentencing a crime perpetrated through the public media, the court shall decide, upon the request from the complainant, that the court sentence or an excerpt from it to be published, for the account of the condemned, through the same media or another appropriate way of publication if the publication through the same media is not possible.

## **19. CRIMES AGAINST SEXUAL FREEDOM AND SEXUAL MORALITY**

### **Rape**

#### **Article 186**

(1) A person who by the use of force or threat to directly attack upon the life or body of another or upon the life or body of someone close to that person, forces him to intercourse, shall be punished with imprisonment of three to ten years.

(2) If because of the crime from item 1 a severe body injury, death or other severe consequences were caused, or the crime was perpetrated by several persons or in an especially cruel and degrading manner, the offender shall be punished with imprisonment of at least four years.

(3) A person that forces another to intercourse with a serious threat that he shall disclose something about this person or about another close to this person, that would harm his honor and reputation, or which would cause some other big evil, shall be punished with imprisonment of six months to five years.

(4) The person who in the cases from items 1, 2 and 3 commits only some other sexual act, shall be punished for the crime from item 1 - with imprisonment of six months to five years, for the crime from item 2 – with imprisonment of one to ten years, and for the crime from item 3 – with imprisonment of three months to three years.

#### **Statutory rape of a helpless person**

#### **Article 187**

(1) A person, who commits statutory rape over another, misusing the mental illness, mental disorder, helplessness, retarded mental development, or some other state because of which this person is unable to resist, shall be punished with imprisonment of at least eight years.

(2) If because of the crime from item 1 a severe body injury, death or some other severe consequence was caused, or if the crime was perpetrated by several persons in an especially cruel or degrading manner, the offender shall be punished with imprisonment of at least ten years or life imprisonment.

(3) The person who in the cases from items 1 and 2 commits only some other sexual act, shall be punished for the crime from item 1 - with imprisonment of three years to five years, and for the crime from item 2 – with imprisonment of three to ten years.

#### **Sexual assault of a juvenile under the age of 14**

#### **Article 188**

(1) A person who commits statutory rape or some other sexual act upon a juvenile under 14 years of age shall be punished with imprisonment of at least eight years.

(2) If the crime from paragraph 1 is committed by a blood relative in direct line of kinship or a brother, i.e. sister, teacher, educator, adoptive parent, guardian, stepfather, stepmother, doctor or some other person, by misusing his position or while performing family violence, he shall be punished with imprisonment of at least ten years.

(3) The sentence referred to in paragraph (2) will be imposed on any person who commits the crime referred to in paragraph (1) with a juvenile under the age of 14, by abusing his or hers mental illness, mental disorder, disability, insufficient mental development, or other condition that renders him or her incapable of resistance.

(4) If because of the crimes from items 1 and 2 a severe body injury, death or some other severe consequences were caused, or the crime was perpetrated by several persons, or in an especially cruel and degrading manner, the offender shall be punished with imprisonment of at least ten years or life imprisonment.

(5) For the perpetrator of the crime specified in paragraph (2) of this Article, the Court shall determine a sentence for the perpetrator prohibition to perform a profession, activity or duty under the conditions specified in Article 38-b of this Code.

#### **Statutory rape with misuse of position**

#### **Article 189**

(1) A person who by misusing his position induces another, who is subordinated or dependent or with the same objective abuses, intimidates or acts in a way that humiliated the human dignity and the human person in relation to him, to intercourse or to some other sexual, act shall be punished with imprisonment of at least five years.

(2) A teacher, educator, adoptive parent, guardian, stepfather, doctor or some other person who by misusing his position commits

statutory rape or some other sexual act upon a juvenile older than fourteen years of age, who was entrusted to him for study, education, custody or care, shall be punished with imprisonment of at least ten years.

(3) For the perpetrator of the crime specified in paragraph (2) of this Article, the Court shall determine a sentence for the perpetrator prohibition to perform a profession, activity or duty under the conditions specified in Article 38-b of this Code.

### **Satisfying sexual passions in front of another**

#### **Article 190**

(1) A person who performs a sexual act in front of another, in a public place, shall be punished with a fine, or with imprisonment of up to one year.

(2) A person who performs a sexual act in front of a child, or who induces a child to perform such an act in front of him or in front of another, shall be punished with imprisonment of three to five years.

### **Mediation in conducting prostitution**

#### **Article 191**

(1) A person who recruits, instigates, stimulates or entices another to prostitution, or a person who in any kind of way participates in handing over another to someone for performing prostitution, shall be punished with imprisonment of five to ten years.

(2) A person who because of profit enables another to use sexual services shall be punished with imprisonment of three to five years.

(3) A person who because of profit, by using force or by serious threat to use force, forces or by deceit induces another to give sexual services, shall be punished with imprisonment of at least eight years.

(4) A person who organizes the crimes from items 1 to 3 or the activities that this person will commit while performing family violence shall be punished with imprisonment of at least to ten years.

(5) If the crime is committed by a legal entity, the legal entity shall be subject to a fine.

(6) The real estate and objects used for the crime to be committed shall be confiscated.

### **Procuring and enabling sexual acts**

#### **Article 192**

(1) A person who procures a juvenile to sexual acts shall be punished with imprisonment of at least eight years.

(2) A person who enables the performing of sexual acts with a juvenile shall be punished with imprisonment of at least five years.

(3) If the crime is committed by a legal entity, the legal entity shall be subject to a fine.

### **Showing pornographic materials to a juvenile**

#### **Article 193**

(1) A person who sells, shows or by public presentation in some other way makes available pictures, audio-visual or other objects with a pornographic content to a juvenile, under the age of 14, or shows him a pornographic performance, shall be punished with imprisonment of six months up to three years.

(2) If the crime has been committed through the public information media, the perpetrator shall be sentenced to imprisonment of three to five years.

(3) The punishment from item 2 shall be applied to a person who abuses a juvenile in the production of audio-visual pictures or other objects with a pornographic content or for pornographic presentations as well as the person who participates in such presentation.

(4) The person who shall force a minor in making and taking photographs or other items with pornographic content or for pornographic show,  
shall be punished by imprisonment  
for at least eight years.

(5) If the crime referred to in paragraph (4) of this Article is committed against minor younger than 14 years of age, the perpetrator shall be punished by imprisonment  
for at least four years.

(6) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(7) The items referred to in paragraphs 1, 2, 3 and 4 shall be confiscated..

## **Production and distribution of child pornography**

### **Article 193-a**

(1) The person who produces child pornography with the purpose of its distribution or transfers it and offers it and makes child pornography available in any other manner, shall be punished by imprisonment for at least five years.

(2) The person who shall purchase child pornography for him/herself or for other person or owns child pornography, shall be punished by imprisonment for five to eight years.

(3) If the crime from paragraphs (1) and (2) of this article has been committed through a computer system or other means of mass communication, the perpetrator shall be punished by imprisonment for at least eight years.

(4) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

## **Enticement of a child under the age of 14 into statutory rape or other sexual activities**

### **Article 193-b**

Any person who via computer-communication means entices a minor that is under the age of 14 into statutory rape or other sexual activities or into production of child pornography, by scheduling an appointment or in any other manner, and if direct encounter with the minor occurred with such intent shall be sentenced to imprisonment for one to five years.

## **Incest**

### **Article 194**

(1) A person who commits statutory rape upon a blood relation of the first line or with a brother, respectively sister, shall be punished with a fine, or with imprisonment of five to ten years.

(2) If the crime stipulated in paragraph (1) is performed with a juvenile 14 years of age or older, the perpetrator shall be sentenced to imprisonment of at least ten years.

## **20. CRIMES AGAINST MARRIAGE, FAMILY AND YOUTH**

### **Bigamy**

#### **Article 195**

(1) A person who marries even though he is already married shall be punished with imprisonment of three months to three years.

(2) The punishment from item 1 shall apply also to the person that marries a person for whom he knows is already married.

### **Enabling a marriage that is not allowed**

#### **Article 196**

An official person who, when performing his official duty, enables a marriage even though he knew of legal obstacles because of which the marriage is prohibited or non-valid, shall be punished with a fine, or with imprisonment of up to three years.

### **Extra-marital life with a juvenile**

#### **Article 197**

(1) An adult who lives in an extra-marital community with a juvenile who has reached the age of fourteen years, but not the age of sixteen, shall be punished with imprisonment of three months to three years.

(2) The punishment from item 1 shall apply also to a parent, adoptive parent, or guardian, who allows a juvenile who has reached the age of fourteen but not yet sixteen years, to live in an extra-marital community with another, or who induces him to this.

(3) If the crime from item 2 is committed from self-interest, the offender shall be punished with imprisonment of one to five years.

### **Taking away a juvenile**

#### **Article 198**

(1) A person who unlawfully takes away a juvenile from a parent, adoptive parent, guardian, from an institution or person to which the

juvenile was entrusted, or who hinders the juvenile from being with the person who has a right to this, or who makes it impossible to execute a decision for assigning the juvenile that has come into effect, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 was committed from self-interest, or for some other low motives, or by using force, threat or deceit, or if because of this the health, upbringing, sustenance or education of the juvenile is threatened, the offender shall be punished with imprisonment of three months to three years.

(3) When pronouncing a conditional sentence, the court may order the offender to return the juvenile or to make possible the execution of the decision for assigning the juvenile that has come into effect.

(4) If the perpetrator of a crime from item 1 returns the juvenile of own volition, or if he enables the execution of a decision that has come into effect, he may be acquitted from punishment.

### **Change of family situation**

#### **Article 199**

(1) A person who by planting, substituting or in some other way changes the family situation of a child, shall be punished with imprisonment of three months to three years.

(2) The attempt is punishable.

### **Deserting a helpless child**

#### **Article 200**

A parent, adoptive parent, guardian or any other person entrusted with a helpless child, who deserts it, with the intention of permanently getting rid of it, shall be punished with imprisonment of three years to five years.

### **Neglecting and mistreating a juvenile**

#### **Article 201**

(1) A parent, adoptive parent, guardian or some other person who by crudely neglecting his duty of caring and upbringing neglects a juvenile or mistreats him, shall be punished with imprisonment of at least five years.

(2) The punishment from item 1 shall apply also to a parent, adoptive parent, guardian or some other person who forces a juvenile to work which does not correspond to his age and physical force, or from self-interest induces him to begging or to performing other activities which are damaging to his development.

(3) If because of the crimes from items 1 and 2 a serious body injury or a severe damage to the health of the juvenile was caused, or the juvenile started with begging, prostitution, or other forms of asocial behavior, the offender shall be punished with imprisonment of at least ten years.

### **Not paying sustenance**

#### **Article 202**

(1) A person who, even though he can do so, avoids providing sustenance which was determined based on a court decision come into effect or a settlement, shall be punished with a fine, or with imprisonment of up to one year.

(2) When pronouncing a conditional sentence, the court may order the offender to pay out the matured obligations, and to pay regularly the sustenance in the future.

### **Violation of family obligations**

#### **Article 203**

(1) A person who by serious violation of his lawful family obligations, leaves a member of the family in a serious situation, one who cannot take care for himself, shall be punished with imprisonment of three months to three years.

(2) If because of the crime from item 1, the member of the family loses his life, or if his health is seriously damaged, the offender shall be punished with imprisonment of at least five years.

(3) When pronouncing a conditional sentence, the court may order the condemned to orderly fulfill his legal obligations.

### **Serving alcoholic drinks to juveniles**

#### **Article 204**

(1) A person, who serves a juvenile in catering premises or in some other shop or place where alcoholic drinks are served and sold, shall be punished with a fine, or with imprisonment from three months to three years.

(2) If the crime from item 1 is committed against a drunken juvenile, the offender shall be punished with a imprisonment from six months to three years.

(3) If the crime stipulated in paragraph (1) has been committed to a child, the perpetrator will be sentenced to imprisonment from one to five years.

(4) If the crime stipulated in this article has been committed by a legal entity, the legal entity shall be fined.

(5) If the perpetrator is sentenced with imprisonment or he/she is put on probation with a predetermined sentence of imprisonment, the court shall also pass a judgment prohibiting the perpetrator performing his/her activity.

## **21. CRIMES AGAINST HUMAN HEALTH**

### **Transmitting an infectious disease**

#### **Article 205**

(1) A person who by violating regulations or orders with which a responsible agency determines check-ups, disinfection, separation of the diseased, or some other measures for wiping out or preventing infectious diseases among people, or by employment or by keeping a person with an infectious disease, by performing a sexual activity or in some other way, causes a transmission of an infectious disease, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall also apply for a person who does not act according to the regulations or orders from the previous item, in regard to the wiping out or prevention of infectious diseases among animals, which could be transmitted to people and herewith cause a transmission of an infectious disease.

(3) If an incurable infectious disease was transmitted as a consequence of the crime from item 1, the offender shall be punished with imprisonment of one to ten years.

(4) A person who commits the crime from items 1 and 2 from negligence shall be punished with a fine, or with imprisonment of up to six months.

(5) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

### **Not reacting to health regulations during an epidemic**

#### **Article 206**

(1) A person who, during an epidemic of a dangerous infectious disease does not act according to the regulations and orders with which measures are determined for it to be wiped out or prevented, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Unscrupulous treatment of the diseased**

#### **Article 207**

(1) A doctor who, when providing doctor's assistance, applies a clearly inadequate means or manner of treatment, or does not apply proper hygienic measures, or in general, acts unscrupulously and herewith causes deterioration in the health situation of another, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall apply also for a midwife or some other health worker who, when providing medical assistance or care, behaves unscrupulously and herewith causes deterioration of the health situation of another.

(3) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to one year.

### **Not providing medical assistance**

#### **Article 208**

(1) A doctor or some other health worker who in contrary to his duty does not provide immediate medical assistance to another who is in life danger, shall be punished with a fine, or with imprisonment of up to one year.

(2) If because of the crime from item 1 the person to whom medical assistance was not provided dies, the offender shall be punished with imprisonment of six months to five years.

### **Quackery**

#### **Article 209**

A person, who without the prescribed qualification deals in treatment or in providing medical assistance, shall be punished with

imprisonment of up to one year, and with a fine.

### **Unallowed transplantation of parts of the human body**

#### **Article 210**

(1) A person who takes a part from the body of another for the purpose of transplantation, or who transplants a part of the body even though the taking or the transplantation is contrary to the medical profession or science, shall be punished with imprisonment of three months to five years.

(2) The punishment from item 1 shall apply also to a person who, with the intention of transplantation, takes a part of the human body intended for transplantation before death was determined in a prescribed manner.

(3) A person who takes a part of the body of another or who transplants a part of the body, without consent from the donor or the recipient, or of their legal representative when the donor or the recipient was not in state to give such consent, shall be punished with a fine, or with imprisonment of up to three years.

(4) The punishment from item 3 shall apply also to a person who in contrary to the law, for a compensation, sells or mediates in the giving of parts of the body of live or deceased persons for the purpose of transplantation.

### **Unscrupulous performing of a pharmaceutical activity**

#### **Article 211**

(1) A pharmacist or some other person, who is authorized to prepare or give out medicaments, and who prepares a medicament in contrary to the regulations for his profession or who gives out a wrong medicament, thus endangering the life or health of another, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to six months.

(3) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(4) The medicaments that were prepared shall be confiscated.

### **Production and release for trade of harmful medical products**

#### **Article 212**

(1) A person who produces, sells, or in some other way releases for trade medicaments or other means for treatment which are harmful to the health, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the crime was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to one year.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

(4) The products and the production means shall be confiscated.

### **Production and release for trade of harmful food and other products**

#### **Article 213**

(1) A person who produces for selling, sells or in some other way releases for trade harmful food products, or drinks, or products for personal hygiene, care or other harmful products, thus creating danger to life and health of the people, shall be punished with imprisonment of three months to three years.

(2) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine or with imprisonment of up to six months.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

(4) The harmful food and other products shall be confiscated.

### **Unscrupulous inspection of meat for consumption**

#### **Article 214**

(1) A veterinarian or some other authorized veterinary worker who performs unscrupulously the inspection of cattle intended for slaughter or of meat intended for consumption, or contrary to the regulations, does not perform this inspection, thus enabling the release for trade of meat that is harmful to the health of people, shall be punished with a imprisonment from six months to three years.

(2) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to

six months.

(3) The meat shall be confiscated.

(4) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

### **Unauthorized production and release for trade of narcotics, psychotropic substances and precursors**

#### **Article 215**

(1) A person who without authorization produces, processes, sells or offers for sale, or who for the purpose of selling, buys, keeps or transports, or mediates in the selling or buying, or in some other way releases for trade, without authorization, narcotics, psychotropic substances and precursors, shall be punished with imprisonment of three to ten years.

(2) If the offense referred to in paragraph (1) is committed with the use of narcotic drugs, psychotropic substances and precursors of a lesser quantity, the perpetrator shall be imprisoned for six months up to three years.

(3) If the crime from item 1 was committed by several persons, or if the offender of this crime organized a network of resellers or mediators, the offender shall be punished with imprisonment of at least five years.

(4) A person who without authorization manufactures, procures, mediates, or gives for use equipment, materials or substances, for which he knows that they are intended for the production of narcotics, psychotropic substances and precursors, shall be punished with imprisonment of one to five years.

(5) The perpetrator stipulated in the paragraph 2, with exception of the organizer, who will reveal the crime or will help in the revealing shall not be punished.

(6) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

(7) The narcotic drugs, psychotropic substances and the precursors, as well as the movable property or the real estate used in their production, transfer and distribution, shall be confiscated.

### **Enabling the taking of narcotics, and precursors**

#### **Article 216**

(1) A person who induces another to taking narcotics, and precursors, or who gives narcotics, psychotropic substances and precursors to another for this person or someone else, or who makes available premises for the taking of narcotics and precursors, or in some other way enables another to take narcotics, psychotropic substances and precursors, shall be punished with imprisonment of one to five years.

(2) If the crime from item 1 is committed towards a juvenile, or towards several persons, or if it caused especially severe consequences, the offender shall be punished with imprisonment of one to ten years.

(3) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(4) The narcotic drugs, as well as the movable property or the real estate used in their production, transfer and distribution or specially intended or put in use, shall be confiscated.

### **Severe crimes against the health of people**

#### **Article 217**

(1) If some person is severely injured bodily, or his health is severely damaged, because of the crimes from article 205 items 1 and 2, article 207 items 1 and 2, article 209, article 211 item 1, article 212 item 1, article 213 item 1, article 214 item 1, article 215 item 1, and article 216 items 1 and 2, the offender shall be punished with imprisonment of one to ten years.

(2) If one or more persons died because of the crimes from article 205 items 1 and 2, article 207 items 1 and 2, article 209, article 211 item 1, article 212 item 1, article 213 item 1, article 214 item 1, article 215 item 1, and article 216 items 1 and 2, the offender shall be punished with imprisonment of at least four years.

(3) If another is severely injured bodily or his health is severely damaged because of the crimes from article 205 item 3, 207 item 3, 211 item 2, 212 item 2, 213 item 2, and 214 item 2, the offender shall be punished with imprisonment of three months to three years.

(4) If one or more persons died because of the crime from article 205 item 3, 207 item 3, 211 item 2, 212 item 2, 213 item 2, and 214 item 2, the offender shall be punished with imprisonment of six months to five years.

## **22. CRIMES AGAINST THE ENVIRONMENT AND NATURE**

### **Pollution of the environment and nature**

**Article 218**

(1) A person who, by not adhering to the regulations for protection and development of the environment, pollutes the air, soil, water, water surface or water flow to a larger extent or in a wider area, thus causing danger for the life or health of the people or destruction of animal and plant life to a larger extent, shall be punished with imprisonment of four to ten years.

(2) An official or responsible person in a legal entity who, by not adhering to the regulations for protection of the environment, omits to place filtering devices or permits construction, activation or use of a plant that pollutes the environment, or in some other way omits to undertake measures for preventing or making it impossible to pollute the air, soil, water, water surface or water flow, which exceeds the allowed limit, or for preventing noise that significantly exceeds the allowed limit, thus creating danger to the life or health of the people or destruction of animal and plant life to a larger extent, shall be sentenced to imprisonment for at least five years.

(3) If the crime from item 1 was committed out of negligence, the offender shall be punished for the crime from item 1 with imprisonment of up to three years.

(4) When pronouncing a conditional sentence, the court may order the perpetrator of the crime the condition to undertake the prescribed measures for protection and development of the human environment within a certain time frame.

(5) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

**Pollution of drinking water****Article 219**

(1) A person who with some harmful matter makes unusable drinking water in springs, wells, cistern, or reservoirs, or some other drinking water, shall be punished with a fine, or with imprisonment of up to three years.

(2) If because of the crime from item 1 an epidemic of an infectious disease was caused, the offender shall be punished with imprisonment of one to five years.

(3) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to six months.

(4) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

**Production of harmful products for treating livestock or poultry****Article 220**

(1) A person who, for the purpose of selling, produces or releases for trade products for treatment or for prevention of an infection among livestock or poultry that are dangerous for their life or health, shall be punished with a fine, or with imprisonment of up to three years.

(2) If a larger number of livestock or poultry perishes because of the crime from item, the offender shall be punished with imprisonment of one to five years.

(3) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to six months.

(4) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

**Unscrupulous providing of veterinary assistance****Article 221**

(1) A veterinarian or an authorized veterinary worker who, when providing veterinary assistance, prescribes or applies an evidently unsuitable means or an evidently unsuitable manner of treatment, or in general, if he handles unsuitably during the treatment, thus causing the perishing of livestock or poultry to a larger value, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the crime from item 1 is committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to six months.

**Transmitting infectious diseases among animal and plant life****Article 222**

(1) A person who during an epidemic of some livestock disease that could endanger livestock breeding does not handle according to the decision of a competent agency, which is passed based on a regulation with which measures are prescribed for the wiping out or prevention of the disease, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall also apply to a person who, during the existence of the danger from disease or pests that could



threaten the plant life, does not handle according to the decision of a competent agency, which is passed based on a regulation that prescribes measures for the wiping out or prevention of the disease or pests.

(3) If because of the crime from items 1 and 2 a significant damage is caused, the offender shall be punished with imprisonment of one to five years.

(4) If the crime from items 1 and 2 is committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to one year.

(5) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Pollution of livestock fodder or water**

#### **Article 223**

(1) A person who pollutes with some harmful matter the livestock fodder or water from rivers, streams, springs, wells, cisterns or some other water which serves for watering livestock, poultry or wild animals, thus endangering the life or health of animals, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall also apply also to a person who with some harmful matter pollutes the water of fisheries, lakes, rivers and streams, and herewith causes a danger to the survival of fish.

(3) If because of the crime from items 1 and 2 a perishing of animals and fish was caused to a larger extent, the offender shall be punished with imprisonment of three months to three years.

(4) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Destruction of crops by using harmful matters**

#### **Article 224**

A person who with some harmful matter causes the destruction of plants, fruit trees or other crops, and herewith causes a damage of a larger extent, shall be punished with a fine, or with imprisonment of up to three years.

### **Usurpation of real estate**

#### **Article 225**

(1) A person who, with the intention of control, takes over another's real estate, which by a regulation has been declared a good in general use, a good under temporary protection or cultural heritage, a natural rarity or some other natural wealth, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall also apply to a person who takes over another's land with the intention of using it for construction.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Unlawful exploitation of minerals**

#### **Article 225-a**

(1) The person who exploits minerals determined by law without concession or permit for doing that, shall be imprisoned for six months up to three years and a fine.

(2) If as a result of the crime referred to in paragraph (1) of this Article a benefit has been gained or a damage of great extent has been caused, the perpetrator shall be imprisoned from three to eight years.

(3) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(4) The objects that were designed or used for the crime to be committed shall be forfeited.

### **Devastation of forests**

#### **Article 226**

(1) A person who, contrary to a regulation or order from competent agencies or organizations, changes the purpose, cuts or digs out forests, or cuts off the bark of trees, or in some other way devastates forests, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the crime from item 1 was committed in a protected forest, a national park, or in some other special purpose forest, the offender

shall be punished with imprisonment from one to five years.

(3) The one that shall perform the crime in his/her own forest, shall be sentenced with a fine or with imprisonment up to one year.

(4) The facilities used in the performing of the crime shall be confiscated.

(5) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Causing a forest fire**

#### **Article 227**

(1) A person who causes a forest fire, thus causing a damage of large proportions, shall be punished with imprisonment of at least eight years.

(2) The same punishment shall apply to a person who causes a fire in a protected forest, a national park or in some other special purpose forest.

(3) A person who causes two or more forest fires shall be punished with imprisonment of at least ten years.

(4) If the crime from items 1 and 2 is committed out of negligence, the offender shall be punished with imprisonment of three to five years.

### **Unlawful hunt**

#### **Article 228**

(1) A person who hunts wild animals during a closed hunting season shall be punished with a fine, or with imprisonment of up to six months.

(2) A person who without authorization hunts in prohibited hunting grounds, kills, wounds or catches alive a wild animal, shall be punished with a fine, or with imprisonment of up to one year.

(3) If the crime from item 2 is committed against tall wild animals, the offender shall be punished with imprisonment of three months to three years.

(4) A person who hunts rare or relatively rare wild animals for which the hunting is prohibited, or hunts without a special permission wild animals for which such a permission is required, or hunts in a manner or with means with which the wild animals are killed in large numbers, shall be punished with a fine, or with imprisonment of up to three years.

(5) The catch and the hunting means shall be confiscated.

### **Unlawful fishing**

#### **Article 229**

(1) A person fishing with explosives, electricity, poison, intoxicating substances, or in a manner damaging to its breeding, and herewith causes the perishing of fish to a large extent, shall be punished with a fine, or with imprisonment of one to five years.

(2) If the crime referred to in paragraph 1 has caused property damage of great proportions or greater benefit has been gained, the perpetrator shall be fined or imprisoned for three months up to three years.

(3) If the crime referred to in paragraph 1 resulted in fish kill of great proportions, the perpetrator shall be imprisoned from six months up to five years.

(4) If the crime referred to in this Article is committed by a legal entity, the legal entity shall be subject to a fine.

(5) The catch and the fishing means shall be confiscated.

### **Endangering of the environment and the nature with waste material**

#### **Article 230**

(1) A person who, in contrary to the regulations for protection of the environment and the nature, stores, leaves or throws around waste materials, or handles them in a way that changes the quality of the air, soil, water or water flows, to an extent which could deteriorate the life of people or animals or plants and endanger their existence, shall be punished with imprisonment of three months to three years.

(2) The punishment from item 1 shall also apply to a person who stores, leaves or throws around waste materials, or handles them in a way as to change the quality of the air, soil, water, water flows, and herewith causes the destruction or significant damaging of woods, plants and other plant life.

(3) One that deposits, litters or leaves dangerous waste which contains substances which can be explosive, reactive, flammable, irritating, toxic, infective, cancerous, eco-toxic or can expel toxic gases through chemical reaction and biological degradation, shall be sentenced with imprisonment for four to ten years.

(4) A person who commits the crime from items 1, 2 and 3 out of negligence shall be punished with a fine, or with imprisonment of one to five years.

(5) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Unauthorized procurement and possession of nuclear materials**

#### **Article 231**

(1) A person who by force or threat, by committing a crime or in some other manner unauthorized procures, mediates, uses, transports or gives to another nuclear materials, or enables another to get to them, shall be punished with imprisonment of at least three years.

(2) A person who with the crime from item 1 causes danger to the life of humans or to property of a larger extent shall be punished with imprisonment of one to ten years.

(3) If the crimes from items 1 and 2 are the cause of death to one or more persons, or of a property damage of a larger extent, the offender shall be punished with imprisonment of at least five years.

(4) If the crime from item 1 is committed out of negligence, the offender shall be punished with imprisonment of three months to three years.

(5) If the crime from item 4 caused the death of several persons, or damages of a large extent, the offender shall be punished with imprisonment of one to five years.

(6) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Bringing dangerous materials into the country**

#### **Article 232**

(1) A person, who in contrary to the regulations brings into the country radioactive or other matter or waste materials, harmful to the life or health of the people, shall be punished with imprisonment of one to ten years.

(2) An official person, who in contrary to the regulations enables the entry into the country of materials or wastes from item 1, shall be punished with imprisonment of at least three years.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Torturing animals**

#### **Article 233**

(1) A person who roughly abuses an animal, or exposes it to unnecessary torment, or causes unnecessary pain to it, or for the sake of pleasure makes it suffer, shall be punished with a fine, or with imprisonment of up to six months.

(2) A person who by not feeding, not watering or in some other manner exposes an animal to an arduous situation for a longer period of time, shall be punished with a fine, or to imprisonment of up to three months.

### **Serious crimes against the environment and the nature**

#### **Article 234**

(1) If, as a result of the offenses referred to in Article 218, paragraphs (1) and (2), Article 219, paragraph (1), Article 230, paragraphs (1) and (2) and Article 232, paragraphs (1) and (2), there is a serious bodily injury or severe damage is caused to the health of more people, the perpetrator shall be imprisoned for one to ten years.

(2) If, as a result of the offenses referred to in Article 218, paragraph (3), Article 219, paragraph (3), and Article 230, paragraph (3), death of one or more people is caused or if the effects of the pollution can not be removed for a long time, the perpetrator shall be imprisoned for at least four years.

(3) If because of the crimes from article 220 item 1, article 221 item 1, article 222 item 1 and Article 225-a paragraphs (1) and (2), article 226 item 1, article 230 items 1 and 2, a property damage of a large extent is caused, the offender shall be punished with imprisonment of one to five years.

(4) If because of the crimes from article 220 item 3, article 221 item 2, article 222 item 4, article 230 item 3, a property damage of a large extent is caused, the offender shall be punished with imprisonment of one to three years.

## **23. CRIMES AGAINST PROPERTY**

### **Theft**

#### **Article 235**

(1) A person, who takes away a movable object from another with the intention to unlawfully appropriate it, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the value of the stolen object is smaller and the offender wanted to steal an object with such a value, he shall be punished with a fine, or with imprisonment of up to one year.

(3) The sentence prescribed in paragraph (1) of this Article shall be also prescribed for the perpetrator who takes away trees from somebody's forest in a quantity of one cubic meter with intent to unlawfully appropriate them.

(4) The attempt for the crimes stipulated in paragraphs (1), (2) and (3) of this article is punishable.

(5) The prosecution of the crime from paragraph (2) of this Article is undertaken upon private suit.

### **Severe theft**

#### **Article 236**

(1) If the theft is committed:

1) by breaking and entry into closed premises, by overcoming obstacles or in some other way overcoming larger hindrances;

2) by several persons, joined for committing a theft;

3) in a bold manner;

4) by a person who carried some kind of weapon or dangerous tool for the purpose of attack or defense;

5) during a fire, flood or similar disaster;

6) by using the helplessness or misfortune of another;

if the objects are of greater value, the perpetrator

shall be imprisoned

for one to five years,

and if the objects are of significant value, the perpetrator

shall be imprisoned

for one to ten years.

(2) For theft of objects with value of great proportions the perpetrator

shall be imprisoned

for one to ten years.

(3) If the stolen object is an asset under temporary protection, a cultural heritage, a natural rarity or a device or other object of special importance for the safety of people and property and safety of public transportation or a public installation facility, the perpetrator

shall be imprisoned

for at least four years.

(4) If the value of the stolen object is smaller and intention of the perpetrator was to steal that kind of object, he will be punished with a fee or with imprisonment up to three years.

### **Robbery**

#### **Article 237**

(1) A person who by using force or by threatening to directly attack the life or body of another, takes another's movable object with the intention to unlawfully appropriate it, shall be punished with imprisonment of at least five years.

(2) If the value of the stolen object is of a large extent, the offender shall be punished with imprisonment of at least eight years.

(3) If the stolen item is of a lower value, the perpetrator shall be imprisoned for one to five years.

(4) If when committing the crime from item 1 a severe body injury is inflicted upon another with intent, or if the crime was committed in a group or gang, or if a firearm or a dangerous tool were used, the offender shall be punished with imprisonment of at least ten years.

(5) If when committing the crime from item 1 another was killed with intent, the offender shall be punished with imprisonment of at least ten years or with life imprisonment.

### **Armed robbery**

#### **Article 238**

(1) A person caught in the act of a theft, who uses force or threatens to directly attack upon the life or body of another with the intention of retaining the stolen object, shall be punished with imprisonment of at least five years.

(2) If the value of the stolen objects is of a large extent, the offender shall be punished with imprisonment of at least eight years.

(3) If the stolen item is of a lower value, the perpetrator shall be imprisoned for one to five years.

(4) If when committing the crime from item 1 a severe body injury is inflicted upon another with intent, or if the armed robbery was committed in a group or gang, or if a firearm or some dangerous tool was used, the offender shall be punished with imprisonment of at least ten years.

(5) If when committing the crime from item 1 another is killed with intent, the offender shall be punished with imprisonment of at least ten years or with life imprisonment.

## **Embezzlement**

### **Article 239**

(1) A person, who unlawfully appropriates another's movable property that was entrusted to him, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the value of the embezzled objects is smaller and the offender wanted to appropriate objects of such a value, he shall be punished with a fine, or with imprisonment of up to one year.

(3) If the crime from items 1 and 2 is perpetrated by a guardian, or a person within a legal entity, to whom the objects were entrusted in regard to his work, he shall be punished with imprisonment of three months to five years.

(4) If the value of the embezzled objects is significant, or the objects are goods under temporary protection or cultural heritage, the offender shall be punished with imprisonment of one to five years.

(5) A person who unlawfully appropriates another's movable property, which he has found or which he has acquired by accident, shall be punished with a fine, or with imprisonment of up to one year.

(6) For the crimes from items 2 and 5, prosecution is undertaken upon private suit, and for items 1, 3 and 4 upon a proposal.

## **Helping oneself**

### **Article 240**

(1) A person who without authorization helps himself to money, securities or other movable objects, which are entrusted to him, or he gives these objects without authorization to another, shall be punished with a fine, or with imprisonment of up to one year.

(2) Prosecution is undertaken upon proposal.

## **Taking away another's objects**

### **Article 241**

(1) A person, who without the intention of appropriating unlawfully takes away a movable property from another in order to keep it under his control, shall be punished with a fine, or with imprisonment of up to one year.

(2) Prosecution is undertaken upon private suit.

## **Taking away a motor vehicle**

### **Article 242**

(1) A person who takes away unlawfully a motor vehicle from another with the intention of using it for driving shall be punished with a fine, or with imprisonment of up to one year.

(2) If the use of the vehicle lasted for a longer period of time, or if a larger damage was caused, the offender shall be punished with imprisonment of three months to three years.

(3) The attempt of the crime from item 1 is punishable.

## **Damage to objects of others**

### **Article 243**

- (1) A person who damages, destroys or makes unusable the object of another, shall be punished with a fine, or with imprisonment of up to three years.
- (2) If the damage has a significant value or the objects have a good under temporary protection or cultural heritage, the offender shall be punished with imprisonment of six months to five years.
- (3) The prosecution for the crime from item 1 is undertaken upon private suit.

### **Damage to the rights of others**

#### **Article 244**

- (1) A person who, with the intention of preventing the realization of the right from objects, sells, destroys, damages or takes away his own object upon which another has a pawn right or the right of usage, shall be punished with a fine, or with imprisonment of up to one year.
- (2) A person who embezzles, fictively sells, destroys, damages or makes unusable the total property or some part of it, or acknowledges a false claim, composes a false contract or with some other deceitful act apparently or truthfully endangers his own state of wealth, and herewith decreases or prevents the possibility of settling with at least one of his creditors, shall be punished with a fine, or with imprisonment of up to three months.
- (3) Prosecution for the crime from items 1 and 2 is undertaken upon private suit.

### **Illegal construction**

#### **Article 244-a**

- (1) Any person who builds, performs construction or conducts and oversight of construction on his or hers land or land that belongs to another person, without a building permit or contrary to the building permit issued by a competent body, shall be sentenced to imprisonment of three to eight years.
- (2) If the offence referred to in paragraph (1) has been committed for the purpose of a sale, the person shall be sentenced to imprisonment of at least four years.
- (3) The sentence referred to in paragraph (2) shall also be imposed on a person who performs construction works contrary to the basic design or makes a reconstruction of the construction elements of the building, without a basic design and undermines the mechanical resistance, construction stability and seismic protection.
- (4) An official person at the local self-government or at a state administration body, in charge of performing duties in the area of spatial planning, who enacts a decision for location conditions contrary to a valid urban plan or issues a building permit contrary to the decision for location conditions and thus violates the planned space, therefore providing unlawful property gain for himself or herself or for another person, or causes some damage to a third party, shall be sentenced to imprisonment of three up to eight years.
- (5) If the crime referred to in this Article has been committed by a legal entity, it shall be punished with a monetary fine.
- (6) The real estate that was constructed shall be seized.

### **Damage to housing and business buildings and premises**

#### **Article 245**

- (1) A user of a flat, a tenant or some other person, who from a housing or business building, or from housing or business premises, takes down or damages an external or internal device, installation, or a part of them, or in some other manner significantly decreases the usability of the building or the premises, shall be punished with a fine, or with imprisonment of up to one year.
- (2) If because of the crime from item 1, the building, the housing or the business premises become unusable, the offender shall be punished with a fine, or with imprisonment of up to three years.
- (3) The prosecution for the crime from items 1 and 2 is undertaken upon private suit.

### **Unlawful moving in**

#### **Article 246**

- (1) A person who unlawfully moves into another's flat, business premises or other premises, shall be punished with a fine, or with imprisonment of up to one year.
- (2) The attempt is punishable.
- (3) If the court pronounces a conditional sentence, it shall order the offender to empty the flat, the business premises or other premises within a certain time frame.

(4) Prosecution is undertaken upon private suit.

## **Defraud**

### **Article 247**

(1) A person, who with the intention of attaining unlawful property gain for himself or for another defrauds another by false presentation or by covering up facts, or keeps him under defraud and herewith induces him to do or not to do something which causes damage to his own or another's property, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the damage is of a smaller value, and the offender wanted to attain such a value, he shall be punished with a fine, or with imprisonment of up to one year.

(3) If the damage is of a larger value, the offender shall be punished with imprisonment of three months to five years.

(4) If the damage exceeds a significant value, the offender shall be punished with imprisonment of one to ten years.

(5) A person who committed the crime from item 1 only with the intention of damaging another shall be punished with a fine, or with imprisonment of up to one year.

(6) The attempt of the crime from items 1 and 5 is punishable.

(7) If the crime referred to in this article is committed by a legal entity, it shall be punished with a monetary fine.

(8) For the crime from items 2 and 5, the prosecution is undertaken upon private suit.

## **Defrauding buyers**

### **Article 248**

(1) A person who, with the intention of defrauding buyers, releases for trade products with a label in which data is entered that does not correspond to the contents, type, origin or quality of the product, or releases for trade products that according to their weight or quality do not correspond to what normally is assumed for these products, or products without a label about the contents, type, origin or quality of the product, when this mark is prescribed, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

## **Fraud in receiving credit or some other benefit**

### **Article 249**

(1) A person who, with the intention of procuring credit, investment funds, subsidies or some other benefit, for himself or for another, for performing an activity, provides the creditor or the competent person for approving such a benefit with untruthful or incomplete data about the state of wealth or other data which is important for receiving the credit or other benefit, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

## **Fraud to the detriment of the funds of the European Community**

### **Article 249-a**

(1) Any person who uses or presents false, incorrect and incomplete statements or documents or omits to provide data, and unlawfully appropriates, keeps or causes damage to the funds of the European Community, funds that are being managed by the European Community or are being managed on their behalf, shall be sentenced to imprisonment for six months to five years.

(2) The sentence referred to in paragraph (1) of this article shall apply to anybody who has used the funds referred to in paragraph (1) contrary to their approved purpose.

(3) The sentence referred to in paragraph (1) of this article shall also apply to anybody who uses or presents false, incorrect and incomplete statements or documents or omits to provide data, thus unlawfully reduces the funds of the European Community, funds that are being managed by the European Community or are being managed on their behalf.

(4) If the crime referred to in this article is committed by a legal entity, it shall be punished with a monetary fine.

## **Insurance fraud**

### **Article 250**

(1) A person who, with the intention of collecting insurance from an insurance company, destroys or damages an object that is insured,

shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from paragraph 1 shall also apply to a person who, with the intention of collecting insurance from the insurance company for body damage, body injury or damage to the health, causes such a damage, body injury or damage to the health.

(3) Prosecution is undertaken upon proposal.

(4) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Damage and unauthorized entering in a computer system**

#### **Article 251**

(1) One that will, without authorization, erase, change, damage, cover or in other way will make unusable a computer data or program or device for maintenance of the computer system, or will make impossible or more difficult the use of a computer system, data or program or the computer communication, shall be sentenced with a fine or imprisonment up to three years.

(2) The sentence stipulated in the paragraph (1) shall be also imposed to one that will, without authorization, enter in somebody else's computer or system with intention to use his/her data or programs in order to obtain illegal material or other gain for himself/herself or for other or with intention to cause material or other damage or transfer the computer data that are not intended for him/her and which obtained without authorization.

(3) The sentence referred in paragraph (1) of this article shall be applicable to anybody who unlawfully intercepts, using technical means, a transfer of non-public computer data to, from and within some computer system, including electromagnetic emissions from a computer system that supports such computer data.

(4) The one that will perform the crimes stipulated in paragraphs 1, 2 and 3 of this article toward a computer system, data or programs that are protected with special measures of protection or are used in the activities of the state authorities, public enterprises or public institutions or in international communications, or as a member of a group that is formed with intention to perform that crimes, shall be sentenced with imprisonment of one to five years.

(5) If greater material gain is obtained with the crime stipulated in paragraphs 1, 2 and 3 of this article or if greater damage is caused, the perpetrator shall be sentenced with imprisonment of six months to five years.

(6) If greater material gain is obtained with the crime stipulated in the paragraph 3 or if greater damage is caused, the perpetrator shall be sentenced with imprisonment of one to ten years.

(7) Any person who unlawfully produces, purchases, sells, keeps in possession or makes it available to others, means, computer passwords, access codes and similar data, thus providing access to one part or to the entire computer system, computer programs or computer data that are intended or suitable for the committal of the offenses referred to in paragraphs (1), (2) and (3) of this article shall be fined or sentenced to imprisonment of up to one year.

(8) The attempt for the crimes stipulated in the paragraphs 1 and 2 is punishable.

(9) If the crime referred to in this article is committed by a legal entity, it shall be sentenced with a fine.

(10) The special facilities, equipment, computer programs or data intended for the crime shall be confiscated.

### **Production and spreading of computer viruses**

#### **Article 251-a**

(1) The one that will produce or take from another a computer virus with intention to spread it in somebody else's computer or computer network, shall be sentenced with a fine or imprisonment up to one year.

(2) The one that will cause damage to somebody else's computer, system, data or program using computer virus, shall be sentenced with imprisonment from six months to three years.

(3) If greater damage is caused with the crime stipulated in the paragraph 2 or if the crime is performed by a group formed with intention for performing that crime, the perpetrator shall be sentenced with imprisonment of one to five years.

(4) The attempt for the crimes stipulated in the paragraph 2 is punishable.

(5) If the crime referred to in this article is committed by a legal entity, it shall be punished with a monetary fine.

### **Computer fraud**

#### **Article 251-b**

(1) The one that, with intention to obtain an illegal material gain, with inputting of untrue data, not inputting true data, by changing, deleting or covering up computer data, forging electronic signature or in other way cause untrue result of the electronic processing and



transfer of the data, shall be sentenced with a fine or imprisonment up to three years.

- (2) If the perpetrator obtained greater material gain, he/she shall be sentenced with imprisonment of three months to five years.
- (3) If the perpetrator obtained significant material gain, he/she shall be sentenced with imprisonment of one to ten years.
- (4) The one that will perform the crime with sole intention to damage somebody else, shall be sentenced with a fine or imprisonment up to one year.
- (5) If the crime stipulated in the paragraph 4 caused greater material damage, the perpetrator shall be sentenced with imprisonment from three months to three years.
- (6) The one that, without authorization, produces, purchases, sells, holds or makes available to other, special facilities, equipment, computer programs or computer data intended or suitable for performing the crimes stipulated in the paragraph 1, shall be sentenced with a fine or imprisonment up to one year.
- (7) The attempt for the crimes stipulated in the paragraphs 1 and 4 is punishable.
- (8) If the crime referred to in this article is committed by a legal entity, it shall be punished with a monetary fine.
- (9) The special facilities, equipment, computer programs or data intended for the crime shall be confiscated.
- (10) For the crime stipulated in the paragraph 4, the procedure is performed upon private lawsuit.

### **Abuse of trust**

#### **Article 252**

- (1) A person who, in representing the property interests of another or in taking care of this person's property, does not fulfill his duty or abuses the given authorizations, with the intention of procuring property gain or damaging the person whose property interests he is representing, or whose property he is taking care of, shall be punished with a fine, or with imprisonment of up to one year.
- (2) If the crime from item 1 was committed by a guardian, authorized person, representative or lawyer, he shall be punished with imprisonment of three months to three years.
- (3) Prosecution is undertaken upon private suit.

### **Unauthorized reception of gifts**

#### **Article 253**

- (1) A person who, by representing the property interests of some legal entity, requests or receives a reward, gift or some other benefit, in order to conclude or not to conclude an agreement, or to perform or not to perform some other action to the detriment of the legal entity, thus causing a larger property loss to the legal entity, shall be punished with a fine, or with imprisonment of one to three years.
- (2) The reward or gift shall be taken away.
- (3) Prosecution is undertaken upon proposal.

### **False bankruptcy**

#### **Article 254**

- (1) A person who, with the intention of avoiding an obligation to pay, causes a bankruptcy by an apparent selling of property or a part of it, by transferring funds to other current accounts, by giving up without indemnity or selling at an extremely low value, by concluding false agreements about debt or acknowledging untruthful claims, by covering up, destroying, changing or maintaining business books in a manner so that his true state of wealth cannot be determined, shall be punished with imprisonment of one to five years and with a fine.
- (2) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Causing bankruptcy by unscrupulous operation**

#### **Article 255**

- (1) A person who knows that he himself or another as debtor is incapable of payment, and who causes a bankruptcy by unreasonable spending and selling objects and rights at an excessively low price, by excessive getting into debt, by undertaking excessive obligations, by concluding or renewing contracts with persons who are incapable of payment, by omitting to collect claims, or in some other way violating his duties in controlling the property or in managing the affairs, shall be punished with imprisonment of three months to three years.
- (2) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

## **Misuse of the procedure for bankruptcy**

### **Article 256**

(1) A person who, in a bankruptcy procedure, reports a false claim or a claim according to a false payment order, in order to realize a right that does not belong to him, shall be punished with a fine, or with imprisonment of up to one year.

(2) A creditor, member of a board of creditors, or a bankruptcy administrator, who for himself or for another, receives a property gain or a promise of property gain, in order to pass or not to pass a decision in a certain sense, or in some other way damages at least one creditor in the procedure bankruptcy, shall be punished with a fine, or with imprisonment of up to three years.

(3) The punishment from item 1 shall also apply to a person who gives or promises property gain to a creditor, member of the board of creditors, or bankruptcy administrator, in order to realize the crime from item 1.

(4) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

## **Damage or privilege of the creditors**

### **Article 257**

(1) A responsible person who, knowing that the legal entity has become incapable of payment, by paying out a debt or in some other way intentionally puts some creditor in a more privileged position, herewith damaging the other creditors, shall be punished with a fine, or with imprisonment of up to three years.

(2) A responsible person who, knowing that the legal entity has become incapable of payment, and with the intention of tricking or damaging the creditors, acknowledges a false claim, puts together a false contract, or by some other deceitful action damages the creditors, shall be punished with imprisonment of six months to five years.

(3) If because of the crime from items 1 and 2, property damage of a large extent was caused, or because of which the legal entity fell into bankruptcy, the offender shall be punished with imprisonment of one to ten years.

(4) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

## **Extortion**

### **Article 258**

(1) A person who, intending to acquire unlawful property gain for himself or for another, by force or by serious threat, forces another to do or not to do something that damages his own or another's property, shall be punished with imprisonment of at least one year.

(2) A person who commits the crime from item 1 in a group, gang or some other association, or by using a firearm or a dangerous tool, in a specially violent manner or when herewith a significant property gain or a significant property damage or a severe physical injury is deliberately caused to some person was caused, shall be punished with imprisonment of at least four years.

(3) The punishment from item 2 shall also apply to a person who commits the crime from item 1 for a reward.

(4) If during performing the crime, some person is killed, the perpetrator shall be sentenced with imprisonment of at least ten years or life sentence.

## **Blackmail**

### **Article 259**

(1) A person who, intending to acquire unlawful property gain for himself or for another, threatens another to disclose something about this person or about some person close to him, which could be damaging to his or their honor or to his or their reputation, and herewith forces this person to do or not to do something damaging to his own or another's property, shall be punished with imprisonment of three months to five years.

(2) A person who commits the crime from item 1 in a group, gang or some other association, or when a significant property gain or damage was caused, shall be punished with imprisonment of one to ten years.

## **Usury**

### **Article 260**

(1) A person who receives or negotiates for himself or for another an excessive property gain for the service performed towards another, by using his difficult state of wealth, difficult housing conditions, need, lack of experience or frivolity, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall also apply to a person who without authorization deals in borrowing money or other consumable objects with an agreement, and hereby negotiates an excessive property gain.

**Covering up****Article 261**

(1) A person who buys, receives as security, or in some other way procures, covers up or pushes through an object or property that he knows was acquired through a crime, or something that was received for this by selling or exchanging, shall be punished with a fine, or with imprisonment of up to three years.

(2) A person who commits the crime from item 1 and who could have known that the object or the property has been acquired through a crime, shall be punished with a fine, or with imprisonment of up to one year.

(3) If the value of the object or the property from items 1 and 2 is significant or the object or the property is an asset under temporary protection or cultural heritage or a device or other object of special importance for the safety of people and property and safety of public transport or a public installation facility, the offender shall be punished with imprisonment for three to eight years.

(4) If the crime referred to in this article is committed by a legal entity, it shall be punished with a monetary fine.

(5) The items as referred to in paragraphs (1), (2) and (3) shall be seized.

**Effective repentance****Article 262**

The court may acquit from punishment the offender of the crimes from articles 235, 239, 240, 241, 242, 243, 244, 245, 246, 248 and 255, if he has returned the object, has indemnified the damages, or in some other way has removed the harmful consequences from the crime, before finding out that he was discovered.

**Prosecution of crimes among close relatives****Article 263**

Besides the crimes prosecuted upon private suit or upon proposal, for the crimes from articles 235, 236, 239 item 3, 242, 252 item 1 and 261, if they are committed against a marital partner, blood relation in first line, brother or sister, adoptive parent or adoptive child, or towards another person with whom the offender lives in a joint household, prosecution is undertaken upon private suit.

**24. CRIMES AGAINST THE CULTURAL HERITAGE AND NATURAL RARITIES****Damage or destruction of goods under temporary protection or cultural heritage or natural rarities****Article 264**

(1) The one that will destruct or will destroy a good under temporary protection or cultural heritage or natural rarity, shall be sentenced with a fine or imprisonment of six months up to three years.

(2) The one that, without authorization of a relevant authority will perform conservation or restoration activities or, without authorization or contrary to the ban will perform archaeological excavation or research or other research activities on goods under temporary protection or cultural heritage, and therefore they could be severely damaged or they could lose their status, shall be sentenced with imprisonment of one to five years.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

**Taking goods under temporary protection or cultural heritage or natural rarities****Article 265**

One that, during archaeological excavation, archive research, geological and paleontology and mineralogy and petrography research, excavations or in other manner will take an finding, material or found object that is a good under temporary protection or cultural heritage or natural rarity, shall be sentenced with imprisonment of one to ten years.

**Export of goods under temporary protection or cultural heritage or natural rarities****Article 266**

(1) One that will export a good under temporary protection or cultural heritage or an object that is natural rarity, without permit by a relevant authority, shall be sentenced with imprisonment of three to ten years.

(2) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

**Transfer of the property on cultural heritage of special importance in state ownership****Article 266-a**

One that will sell, give or in other way transfer the ownership on a cultural heritage of special importance in state ownership, shall be sentenced with imprisonment for three to five years.

### **Ban on import of stolen cultural heritage**

#### **Article 266-b**

One that will import movable cultural heritage stolen in museums, religious and other similar public structures or institutions on the territory of other state, shall be sentenced with imprisonment of one to ten years.

### **Destruction or covering up of unprocessed archive materials**

#### **Article 267**

A person who destroys or covers up index materials, before archive material is selected from it, so that it cannot be used as a source for archive material, shall be punished with a fine, or with imprisonment of one up to three years.

## **25. CRIMES AGAINST PUBLIC FINANCES, PAYMENT OPERATIONS AND THE ECONOMY**

### **Counterfeiting money**

#### **Article 268**

(1) A person who makes false money with the intention of releasing them in circulation as real, or a person who alters real money with the intention of releasing them in circulation, or a person who releases such false money in circulation, shall be punished with imprisonment of one to ten years.

(2) The punishment from item shall also apply to the person who acquires false money with the intention of releasing them in circulation as real.

(3) If because of the crimes from items 1 and 2 a disorder of the economy of the country was caused, the offender shall be punished with imprisonment of at least five years.

(4) A person who releases in circulation false money which he had received as real, or a person who knows that false money were made, or that false money were released in circulation, and who does not report this, shall be punished with a fine, or with imprisonment of up to three years.

(5) The false money shall be confiscated.

### **Counterfeiting securities**

#### **Article 269**

(1) A person who makes false securities, or a person who alters a real security, with the intention of using it as real, or to give it to another for use, or a person who uses such false securities as real, shall be punished with imprisonment of one to ten years.

(2) The punishment from item 1 shall also apply to a person who acquires false securities with the intention of releasing them in circulation as real.

(3) A person who releases in circulation false securities which he had received as real, or a person who knows that false securities were made or that false securities were released in circulation and who does not report this, shall be punished with a fine, or with imprisonment of up to three years.

(4) The false securities shall be confiscated.

### **Falsified marks of value**

#### **Article 270**

(1) A person who makes false tax stamps or postage stamps or some other marks of value, or a person who alters any of these real marks, with the intention of using them as real, or to give them to another to be used, or a person who uses such false marks as real, or procures them with that intention, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall also apply to a person who by removing the stamp that cancels out the marks from item 1, or in some other manner makes the already used marks look as if they were not used, or to a person who uses these already used marks or sells them as if they were valid.

(3) The false marks of value shall be confiscated.

### **Making, procuring or selling counterfeiting means**

#### **Article 271**

- (1) A person who makes, procures, sells or gives for use means for making false marks of value, shall be punished with a fine, or with imprisonment of up to one year.
- (2) A person who unlawfully produces, procures, holds, sells or gives for use instruments, objects, computer programs and other safety securities or components that serve for protection against forgery, as well as means for unauthorized acquisition of bank data, for the purpose of making counterfeit money or tempering of real money or, other payment instruments, securities or false payment cards, shall be sentenced to imprisonment for three to ten years.
- (3) The sentence referred to in paragraph 2 of this article shall also be imposed to a person who without authorization installs means for creating false payment cards on banking devices or uses them in other manner in order to obtain bank data from real payment cards and data about the holders of such cards.
- (4) The means from items 1 and 2 shall be confiscated.

### **Specific cases of counterfeiting money, securities or marks of value**

#### **Article 271-a**

- (1) The following persons shall be considered to have committed an act of counterfeiting money, securities or marks of value and shall be sentenced pursuant to Articles 268, 269 and 270 of this Code:
- 1) A person who makes money, securities or marks of value, contrary to the decision of a competent body regarding the type, quantity or other features; and
  - 2) A person who contrary to the specific authorization of a competent body for withdrawal from circulation or destruction, leaves money, securities or marks of values into circulation.
- (2) A legal entity shall be sentenced with a fine for the crime referred to in this article.

### **Falsifying marks for marking goods, measures and weights**

#### **Article 272**

- (1) A person who with the intention of using them as real, makes false marks for marking domestic or foreign goods, such as seals, stamps or measures with which gold, silver, livestock, wood or some other kinds of goods are marked, or alters real marks, or a person who uses false marks as if they were real, shall be punished with imprisonment of three months to five years.
- (2) The punishment from item 1 shall also apply to a person who does the falsifying of measures or weights.
- (3) A person who without authorization makes, procures, sells or gives for use, means for making marks for the marking of goods, as well as for false measures and weights, shall be punished with a fine, or with imprisonment of up to three years.
- (4) The false marks, measures and weights, as well as the means for making them, shall be confiscated.

### **Money laundering and other income from crimes**

#### **Article 273**

- (1) A person who releases in circulation or trade, receives, takes over, exchanges or breaks down money or other property that he/she obtained through a crime or he/she knows that that money or the property have been obtained through crime, or with conversion, change, transfer, or otherwise covers up that the money have come from such a source, or covers their location, circulation or ownership, shall be sentenced to imprisonment for one to ten years.
- (2) The sentence referred to in paragraph 1 shall be also applied to a person who possesses or uses assets or items which he/she knows that have been obtained by committing a punishable act or by counterfeiting of documents, failing to report facts or otherwise covering up that they originate from such a source, or covers up their location, circulation and ownership.
- (3) If the crime stipulated in the paragraphs 1 and 2 is performed in banking, financial or other type of business activity or if he/she, through splitting of the transaction, avoids the obligation for reporting in the cases prescribed by the law, the perpetrator shall be sentenced with imprisonment of at least three years.
- (4) One that will perform the crime stipulated in the paragraphs 1, 2 and 3, and he/she was obligated to know and could have known that the money, the property and the proceeds of crime were obtained through a crime, shall be sentenced with fine or imprisonment up to three years.
- (5) One that will perform the crime stipulated in the paragraphs 1, 2 and 3 as a member of a group or other association that is dealing with money laundering, illegal obtaining of property or proceeds of crime, or with assistance of foreign banks, financial institutions or persons, shall be sentenced with imprisonment of at least five years.

- (6) Any official person, responsible person in a bank, insurance company, company that organizes games of chance, exchange office, stock exchange or another financial institution, an attorney, except when he or she acts as a defender, notary public or other person who

performs public authority or works of public interest, who will enable or allow a transaction or a business relation, contrary to his or her legal duties or will perform a transaction contrary to the prohibition issued by a competent body or temporary measure issued by a court or will not report laundering of money, property or property gain, that he or she identified during the course of their functions or duties, shall be sentenced to imprisonment for at least five years.

(7) An official person, responsible person in a bank or other financial institution, or person performing activities of public interest, who according to the law is authorized entity for implementation of measures and activities for prevention of laundering of money and other proceeds of crime, and who with no authorization reveals to a client or other person data that refer to the procedure for investigating suspicious transactions or to the implementation of other measures and activities for prevention of money laundering, shall be sentenced to imprisonment of three months to five years.

(8) If the crime has been performed out of self-interest or for the use of data abroad, the perpetrator shall be sentenced to imprisonment for at least one year.

(9) If the crime specified in paragraph (7) of this article has been committed out of negligence, the perpetrator shall be sentenced with a fine or imprisonment of up to three years.

(10) If any actual or legal obstacles exist for determination of the previous punishable act and prosecution of the perpetrator, the existence of such crime shall be determined on the basis of actual case circumstances and the existence of grounded suspicion that the property has been obtained through such a crime.

(11) The perpetrator's knowledge, that is, his/her duty and possibility to know that the assets have been acquired through a crime can be established on the basis of objective factual circumstances of the case.

(12) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

(13) The proceeds of crime shall be confiscated, and if the confiscation is not possible, then other property of the perpetrator of equivalent value shall be confiscated.

### **Issuing a bad check and abuse of a payment card**

#### **Article 274**

(1) A person who with the intention of attaining unlawful property gain for himself or for another, issues or releases in circulation a check for which he knows there is no backing to an amount which is explicitly prohibited by the contract for using the check, and herewith acquires a larger unlawful property gain, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall also apply to a person who with the intention of procuring unlawful property gain, uses a bank payment card or a ATM card for withdrawing money or payment for goods and services for which he knows has no backing to the amount which is explicitly prohibited by the contract for using the card, and herewith acquires a larger property gain.

(3) If a significant property gain was attained through the crime from items 1 and 2, the offender shall be punished with imprisonment of one to five years.

(4) If the offender of the crime from items 1 and 2 provides backing before he finds out he was discovered, he may be acquitted from punishment.

(5) If the crime stipulated this article is performed by a legal entity, it shall be sentenced with a fine.

### **Issuance of acceptance order without funds**

#### **Article 274-a**

(1) The one who issues acceptance order, for which he/she knows there is no funds on his/her account in the amount specified in the acceptance order at the moment when the payment arrives, shall be fined or imprisoned for up to three years.

(2) If the perpetrator could have known that at the moment when the payment arrives there will be no funds on his/her account in the amount specified in the acceptance order, shall be fined or imprisoned for up to one year.

### **Making and use of false payment cards**

#### **Article 274-b**

(1) Any person who makes a false payment card with the intention to use it as real, or obtains false card with such intention, or gives it to another person for use or the person who uses false card as a real card, shall be sentenced to imprisonment of six months up to five years and with a fine.

(2) The sentence referred to in paragraph (1) of this article shall also be imposed to a person who obtains bank data from real payment cards and data about the holders of such payment cards with the intention to use them for making and using false payment card or gives the data obtained in such manner to another person with such intention.

(3) If a significant property gain has been obtained by the perpetrator referred to in paragraph 1 of this article, he/she shall be sentenced to imprisonment for one up to eight years.

(4) If the crime referred to in paragraphs 1, 2 and 3 of this article has been committed by a member of a group, gang or other criminal enterprise, the perpetrator shall be sentenced to imprisonment for at least four years.

(5) If the crime referred to in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Security and share fraud**

#### **Article 275**

(1) One that during take over of a joint stock company or during dissemination of securities and shares and other documentation regarding the securities and shares, based on untrue, incomplete or partial information, will falsely show the material situation of the legal entity that disseminates the securities or shares, the data on the profit and loss, its financial activities or other data for the activity of the legal entity that have influence on the market value of the securities or shares, and due to this will stimulate one or more persons to sell or buy the actions or other securities or shares, shall be sentenced with a fine or imprisonment up to three years.

(2) The sentence stipulated in the paragraph 1 will be also imposed to one that in the legal entity, against his/her duty for keeping business secret, will inform an unauthorized person or in other way will use data that is business secret that has influence on the price of the securities or shares and due to that will put the individuals and the legal entities in unequal position on the securities or shares market.

(3) The responsible person in the legal entity, person with special authorizations, another employee in the legal entity, stockholders or cofounders of the legal entity or external associate of the legal entity with access to internal information, who in its operations obtains confidential information or other internal information important for the operations of the legal entity and the value of the securities or shares, and uses the information without authorization or transfers them to a third person who on the basis of such information through purchase or sale of securities or shares of the legal entity obtains property gain for himself/herself or for another person, shall be sentenced to imprisonment for one to five years.

(4) The person who concludes a transaction at the securities market, or issues an order for trading that contains untruth data about the offer, the demand or the price of the securities, provides untruth information or omits to provide necessary information referring to the price of the securities, or creates delusion among the sellers or buyers of securities with some other fraudulent action, shall be sentenced with a fine or imprisonment of up to three years.

(5) If the perpetrator obtained greater material gain for himself/herself or for other person during the crime stipulated in the paragraphs 1, 2 and 3, or if he caused greater material damage to other person or if damage is caused to larger number of persons or caused violation or disturbance at the securities market, he/she shall be sentenced with imprisonment of one to ten years.

(6) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

(7) The court shall pronounce to the perpetrator a sentence for prohibition to perform profession, activity, or duty in accordance with the terms determined under article 38-b of this Code.

### **Infringement of rights arising from securities**

#### **Article 275-a**

(1) Responsible person in legal entity, other employed person in the legal entity, stockholder or cofounder or a person authorized by the responsible person, who obstructs a holder of securities to exercise his/hers rights arising from securities, shall be sentenced with a fine and imprisonment of up to three years.

(2) If the crime referred to in paragraph (1) of this article has been against two or more persons, the perpetrator shall be sentenced with a fine and imprisonment of one up to five years.

### **Illegal acts of authorized auditor**

#### **Article 275-b**

(1) An authorized auditor, who has signed an incorrect or incomplete financial statement, i.e. a misleading financial report or a report that is contrary to the international standards on financial reporting and the international auditing standards for issuers of securities that are

traded on an authorized stock exchange, thus, by such an activity, caused a certain person to suffer damages or achieve property gains by influencing trading volumes or the prices of the issuer's security, thus increasing or reducing the price of the securities and encourages the investors to either buy or sell the securities, or causes an impression of an active trade in securities in order to encourage the investors to buy or sell the securities, shall be fined and sentenced to imprisonment of up to five years.

(2) If the crime has been committed against several people, the perpetrator shall be fined and sentenced to imprisonment of one to five years.

(3) If by committing the crime referred to in paragraphs (1) and (2) of this article the perpetrator acquired a significant property gain for himself or for another person or caused larger property damage to another person, or if a larger number of people have suffered damages, the perpetrator shall be sentenced to imprisonment for one to ten years.

(4) If the crime referred to in this article is performed by a legal entity, it shall be sentenced with a fine.

(5) The court will prohibit the perpetrator to practice his profession, activity or duties, under the conditions established by Article 38-b of this law.

### **Abuse of an open call procedure, awarding of public procurement contract or public-private partnership**

#### **Article 275-c**

(1) A person who consciously violates the regulations for the open call procedure, awarding public procurement contract or public-private partnership by submitting false documentation, making arrangements with other possible participants for the purpose of misleading the procedure for awarding contracts for public procurement, not fulfilling the obligations arising from the contract with intention to mislead it or otherwise intentionally violates the rules of procedure and thus, acquires for himself/herself or for another person greater property gain, or causes larger property damage, unless characteristics of other more severe crime are met, then such a person shall be sentenced with a fine or imprisonment of up to three years.

(2) If the perpetrator acquired significant property gain for himself/herself or for another person or caused significant damage by performing the crime referred to in paragraph 1 of this article, he/she shall be sentenced to imprisonment of at least four years.

(3) If the perpetrator has acquired a property gain of greater proportions for himself/herself or for another person or caused a damage of greater extent by performing the crime referred to in paragraph 1 of this article, he/she shall be sentenced to imprisonment of at least five years.

(4) If the crime referred to in this article is performed by a legal entity, it shall be sentenced with a fine.

(5) The attempt of committing the crime referred to in paragraph 1 of this article is punishable.

(6) The court shall pronounce to the perpetrator referred to in paragraphs 1, 2 and 3 a sentence for prohibition to perform profession, activity, or duty under the conditions established by Article 38-b of this law.

(7) In addition to the fine, the court shall pronounce to the perpetrator a ban to participate in procedures for awarding contracts for public procurements.

### **Prohibited production**

#### **Article 276**

(1) A person who produces or processes goods for which production or processing is prohibited, if there are no indications of some other more severe crime, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime stipulated this article is performed by a legal entity, it shall be sentenced with a fine.

(3) The goods and production or processing means shall be confiscated.

### **Prohibited trade**

#### **Article 277**

(1) A person who without authorization buys, sells or exchanges objects or goods with a larger value, whose trade is prohibited or limited, if no indications exist of some other crime, shall be punished with a fine, or with imprisonment of up to one year.



(2) If the offender of the crime from item 1 organized a network of middlemen or mediators, he shall be punished with a fine, or with imprisonment of up to three years.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

(4) The objects and goods of the prohibited trade shall be confiscated.

### **Trafficking**

#### **Article 278**

(1) A person who deals with transfer of undeclared goods or goods other than the ones declared or reported through the customs line, avoiding the customs control, or a person who by avoiding the customs control transfers unreported goods or goods other than the declared or reported goods of greater value, shall be sentenced with a fine or imprisonment of up to four years.

(2) If the goods have significant value, the perpetrator shall be sentenced with a fine or imprisonment of six months to five years.

(3) If the goods are of great proportions, the perpetrator shall be sentenced with a fine and imprisonment of at least four years.

(4) One that will organize a gang, group or other criminal association for performing the crime stipulated in the paragraph 1 or for dissemination of goods that are not cleared through customs, or if he/she performs the crime armed with fire arms or using force and threat, shall be sentenced with imprisonment of one to five years.

(5) The official that helps, enables or covers or does not prevent the performing of the crimes stipulated in the paragraphs 1 and 2, shall be sentenced with imprisonment of one to ten years.

(6) The attempt of the crime stipulated in paragraph 1 is punishable.

(7) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

(8) The goods that are object of the crime stipulated in the paragraphs 1 through 3 and the means of their transfer and dissemination shall be confiscated, and if their confiscation is not possible, other property of the perpetrator shall be confiscated, that has value similar to the value of the goods in the time of the crime.

(9) The means of transfer and dissemination of the goods will be also confiscated if they are owned by a third party who knew or was obligated and could know that the means shall be used for transfer or dissemination. The means will be always confiscated if they are specially constructed, adopted, changed or adjusted in any way, for hiding of goods.

### **Customs fraud**

#### **Article 278-a**

(1) One that gives the customs authority false data for goods and other facts that have influence on the calculation for payment or return of the taxes and fees, or does not fulfill obligation according to the law that has influence on the calculation of the taxes and fees during import or export or in other way mislead the customs authority, with intention to avoid the payment of the taxes and fees during import or export for himself/herself or for other person, and the amount of the taxes and fees has greater value, shall be sentenced with imprisonment of six months to three years and with a fine.

(2) If the amount of the fees and taxes paid for export or import is of significant value, the perpetrator shall be sentenced to imprisonment for one to ten years.

(3) If the amount of the taxes and fees that are paid during import or export is very large, shall be sentenced with imprisonment of one to five years and with a fine.

(4) If the amount of the taxes and fees is very large, shall be sentenced with imprisonment of at least four years and with a fine.

(5) The attempt of the crime stipulated in paragraph 1 is punishable.

(6) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Covering of goods that are object of smuggling and customs fraud**

#### **Article 278-b**

(1) One that purchases, sells, disseminates, receive as a gift, receive for keeping, uses or accepts for housing goods with greater value on any basis and for which he/she knows or was obligated to know that are object of crime stipulated in the article 278 and article 278-a,

shall be sentenced with fine or imprisonment up to three years.

(2) The attempt of the crime stipulated in paragraph 1 is punishable.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Tax evasion**

#### **Article 279**

(1) A person who with the intention, for himself or for another, to avoid the full or partial payment of tax, contribution, or some other duty, which he is obliged to do by law, gives false information about his revenues or the revenues of the legal entity, objects or other facts which have an influence upon the assessment of the amount of these obligations, or who with the same intention, in the case of compulsory application, does not report an income, object or some other fact which is of influence upon such obligations, and when the amount of the obligation has a larger value, shall be punished with imprisonment of six months to five years and with a fine.

(2) If the amount of the obligation from paragraph 1 is significant, the offender shall be punished with imprisonment at least four years and with a fine.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Falsifying or destruction of business books**

#### **Article 280**

(1) A person who enters false data or does not enter some important data in a business document, business book, financial statement, book or paper, which he is obliged to maintain based on a law or some other regulation, or who with his signature or stamp verifies a business document, book or paper with false contents, or who with his signature or stamp makes it possible to prepare a document, book or paper with false contents, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall also apply to a person who uses a false business document, book or paper as if it were real, or who destroys, covers up, damages or in some other way makes unusable a business document, book or paper.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Disclosing and unauthorized acquisition of a business secret**

#### **Article 281**

(1) A person who unauthorized tells, hands over or in some other way makes available to another unauthorized data which by law has been declared to be a business secret, as well as a person who acquires such data with the intention of handing it over to another unauthorized, shall be punished with imprisonment of one to five years.

(2) A person who tells, hands over or in some other way makes available to an unauthorized person data which by regulation or decision of a competent administration organ has been declared to be a business secret, if the disclosing of this data caused or could have caused more serious harmful consequences, as well as a person who acquires such data with the intention of handing it over to an unauthorized person, shall be punished with imprisonment of three months to three years.

(3) If the data from items 1 and 2 are of special importance, or the disclosing, respectively the acquisition of the data was done with the purpose of carrying them abroad, he shall be punished with imprisonment of one to ten years.

### **Violation of the equality in performing an economic activity**

#### **Article 282**

(1) A person who by misusing his official position or authorization limits the free movement of reproduction means in a certain area, takes away or limits the right of an enterprise or some other legal entity in a certain area to deal in trade of goods and services, puts a legal entity in an unequal position in regard to other legal entities concerning the working conditions or in trade with goods and services, or limits the free performing of the activity or the free exchange of goods and services, shall be punished with imprisonment of six months to five years.

(2) The punishment from item 1 shall apply to a person who uses his social position or influence for the crime to be committed.

### **Prevention, limitation or obstruction of competition**

#### **Article 283**

(1) A responsible person in a legal entity, who concludes an agreement or participates in concluding an agreement, decision or arranged practice, prohibited by law, in order to prevent, limit or obstruct competition, thus enabling the legal entity to attain a property gain of large proportions or creates damage of great proportions, shall be sentenced to imprisonment of one to ten years.

## Unfair competition in foreign trade

### Article 284

(1) A representative or agent of a domestic legal entity who, knowing that some other domestic person has previously reached an agreement with a foreign company about foreign trade activities, or that the concluding of an agreement for that deal is pending, gives an offer to that company for buying or selling the same kind of goods, respectively for performing the same service, and because of this the foreign company gives up concluding the agreement or the agreement is concluded under less favorable conditions for the domestic legal entity, shall be punished with imprisonment of six months to five years.

(2) If the perpetrator of the crime referred to in paragraph (1) of this article has acquired property gain of large proportions or caused damage of great proportions, he/she shall be sentenced to imprisonment of one to ten years.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

## Violation of industrial property rights and unauthorized use of someone else's company

### Article 285

(1) A person who contrary to the regulations on industrial property, with the intention of deceiving buyers or users of services, abuses someone else's protected trademark, protected industrial design, protected designation of product's origin and geographical indication, shall be sentenced with a fine or imprisonment of at least three years.

(2) The sentence referred to in paragraph 1 of this article shall be imposed upon a person who with the intention of deceiving buyers, without authorization produces, puts into circulation, imports, exports, offers for sale or warehouses products which are subject to protection of the rights referred to in paragraph (1) of this article.

(3) The person who uses someone else's company or introduces in its company features from the rights specified in paragraph (1) of this article without authorization, shall be sentenced with a fine or imprisonment of up to three years.

(4) If the perpetrator, by performing the crime referred to in paragraphs (1), (2) and (3), of this article has acquired significant property gain or caused significant property damage, he/she shall be sentenced to imprisonment of one to five years and a fine.

(5) If the crime referred to in paragraphs (1), (2) and (3) of this article is committed by a an organized group or it causes danger to people's life and health, the perpetrator shall be sentenced to imprisonment of at least five years.

(6) If the crime referred to in this article is performed by a legal entity, it shall be sentenced with a fine.

(7) The items created or used for perpetration of the crime, shall be confiscated.

## Violation of rights arising from reported or protected innovation and topography of integrated circuits

### Article 286

(1) A person who with the intention to damage someone else or attain illegal property gain, files application for patent with no authorization or does not list or falsely lists the inventor or reveals to the public the essence of the invention prior to its publication in a manner determined by law, shall be sentenced with a fine or imprisonment of up to three years.

(2) The punishment referred to in paragraph (1) of this article shall be also imposed upon a person who with the intention of damaging someone else or acquiring unlawful property gain, without authorization produces, puts into circulation, imports, exports, offers for sale or stores or uses products or procedures that are subject to protection with patent or without authorization uses, reproduces, imports, exports or distributes protected topography of integrated circuits or software.

(3) The person who acquired significant property gain or caused significant property damage by committing the crime referred to in paragraphs (1) and (2) of this article, shall be sentenced to imprisonment of one to five years and a fine.

(4) If the crime referred to in paragraphs (1) and (2) of this article is committed by an organized group or it causes danger to people's life

and health, the perpetrator shall be sentenced with a fine or imprisonment of at least three years.

(5) If the crime referred to in this article is performed by a legal entity, it shall be sentenced with a fine.

(6) The items created or used for perpetration of the crime, shall be confiscated

### **Misuse of authorization in the economy**

#### **Article 287**

(1) A responsible person who with the intention of acquiring unlawful property gain for a legal entity where he works or for some other legal entity, creates or keeps funds in the country or abroad which are not permitted; or by composing a document with false contents, with a false financial statement, evaluation or inventory, or with some other false presentation or by covering up facts shows untruthfully the situation and the flow of funds and the results from work, and in this way misleads the management organs in the legal entity when making decisions, shall be punished with imprisonment of one to five years.

(2) The sentence stipulated in the paragraph (1) shall be imposed on the responsible person in the legal entity which has a contract for housing of the reserves, which uses or transfers the goods, or changes their purpose or the warehouse space, or in other way deals with the goods, against the provisions of the contract.

(3) If a significant property gain was acquired through the crime from item 1, the offender shall be punished with imprisonment of one to ten years.

## **26. CRIMES AGAINST THE GENERAL SAFETY OF PEOPLE AND PROPERTY**

### **Creating a general danger**

#### **Article 288**

(1) A person who by fire, flood, explosion, poison or poisonous gas, ionizing radiation, motor power, electrical or other energy, or by some generally dangerous action or means causes a significant danger for the life or body of people, or for property to a large extent, shall be punished with imprisonment of six months to five years.

(2) The punishment from item 1 shall apply to an official or responsible person who does not set up the prescribed devices for the protection from fire, explosion, flood, poisons, poisonous gases or ionizing radiation, or does not maintain these devices in a proper functioning state, or if in the case it is needed he does not activate them or in general, does not act according to the regulations or technical rules concerning protective measures, and herewith causes a danger for the life and body of people, or for property to a large extent.

(3) If the crime from items 1 and 2 is committed in a place where a larger number of people are gathered, the offender shall be punished with imprisonment of one to five years.

(4) A person who commits the crime from items 1, 2 and 3 out of negligence shall be punished with a fine, or with imprisonment of up to three years.

(5) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Causing danger during construction work**

#### **Article 289**

(1) A responsible person who during project preparation, management or execution of some construction or construction work acts in contrary to the regulations or to the generally acknowledged technical rules, and herewith causes a danger for the life and body of people, or for property to a large extent, shall be punished with imprisonment of three months to five years.

(2) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to three years.

(3) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Damaging protective devices**

#### **Article 290**

(1) A person who in mines, factories, workshops or generally during work, destroys, damages, makes unusable or removes the protective devices, and herewith causes a danger for the life and body of people or for property to a large extent, shall be punished with imprisonment of one to five years.

(2) The responsible person in a mine, factory, workshop, or generally at work, who does not set up protective devices, or does not

maintain them in a proper functioning state, or in the case when it is needed does not activate them, or in general does not act according to the regulations and technical rules for protection at work, and herewith causes a danger for the life and body of people, or for property to a large extent, shall be punished with imprisonment of three months to five years.

(3) If the crime from items 1 and 2 is committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to three years.

(4) When pronouncing a conditional sentence for the crime from items 1, 2 and 3, the court shall impose upon the condemned the condition to set up the protective devices or to make them functional within a fixed time period.

### **Destruction or damage to public installations**

#### **Article 291**

(1) A person who destroys, damages, removes, changes or makes unusable installations of public utilities for water, heat, gas or energy, or the installations of communication systems, and herewith causes a significant disturbance in the regular life of citizens or of the economic activities, shall be punished with imprisonment of six months to five years.

(2) A person who commits the crime from item 1 out of negligence shall be punished with a fine, or with imprisonment of up to one year.

### **Severe crimes against general safety**

#### **Article 292**

(1) If because of the crime from article 288 items 1, 2 and 3, 289 item 1, 290 items 1 and 2, and article 291 item 1, a serious body injury to another or a larger property damage was caused, the offender shall be punished with imprisonment of one to ten years.

(2) If because of the crime from article 288 items 1, 2 and 3, article 289 item 1, 290 items 1 and 2, and 291 item 1, death is caused to one or more persons, the offender shall be punished with imprisonment of at least three years.

(3) If because of the crime from article 288 item 4, 289 item 2, 290 item 3, and 291 item 2, a serious body injury to another or a larger property damage is caused, the offender shall be punished with imprisonment of three months to five years.

(4) If because of the crime from article 288 item 4, 289 item 2, 290 item 3, and 291 item 2, death is caused to one or more persons, the offender shall be punished with imprisonment of one to five years.

### **Damaging dams**

#### **Article 293**

A person who damages dams or devices that serve as protection against natural disasters shall be punished with a fine, or with imprisonment of up to one year.

### **Failure to remove a danger**

#### **Article 294**

(1) A person who does not undertake measures by timely report to the competent authority or in some other manner, for removing a fire, flood, explosion, traffic accident or some other danger to the life and body of people or for the property to a significant extent, even though he could have done this without risk to himself or to others, shall be punished with a fine, or with imprisonment of up to one year.

(2) A person who by dissuading or in some other manner prevents another from undertaking measures for the removal of a flood, explosion, traffic accident or some other danger to the life and body of people or for the property to a large extent, shall be punished with imprisonment of three months to three years.

### **Unauthorized production and release for trade of generally dangerous materials**

#### **Article 295**

(1) A person who without authorization manufactures, produces, collects or hides ionizing or other materials which could cause a general danger for the life of people and property with a significant value, or enables another to acquire them without authorization or to transfer them improperly, shall be punished with a fine, or with imprisonment of up to one year.

(2) The punishment from item 1 shall apply to a person who, contrary to the regulations for trade in explosives or inflammable materials, hands over such materials for transportation in public means of transportation, or carries them himself, using public means of transportation.

(3) If the crime referred to in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Failure to participate in removing a general danger**

#### **Article 296**

A person who, in contrary to an order or a call from a competent authority or organization, without justified reason, refuses to participate in the removal of a danger from fire, flood or similar general disaster, shall be punished with a fine, or with imprisonment of up to one year.

## **27. CRIMES AGAINST SAFETY IN PUBLIC TRAFFIC**

### **Endangering traffic safety**

#### **Article 297**

(1) A participant in traffic on the public roads, who does not adhere to the regulations, and herewith endangers the public traffic in such a way as to endanger the life and body of people, and property to a significant extent, and because of this another sustains a body injury or a significant property damage is caused, shall be punished with a fine, or with imprisonment of up to three years.

(2) A person who does not adhere to the safety regulations for traffic by bus, railroad, air and ship, cable railway or traffic with other means for public mass transportation, and herewith causes a danger to the life and body of people, or for property to a significant extent, shall be punished with imprisonment of six months to five years.

(3) A person who commits the crime from items 1 and 2 out of negligence shall be punished with a fine, or with imprisonment of up to one year.

### **Endangering traffic safety with a dangerous act or means**

#### **Article 298**

(1) A person who destroys, removes or damages more seriously a traffic device, means or sign, or a signalization device which serves for traffic safety, or gives a wrong signal or sign, or sets up an obstacle on the traffic artery, or in some other way endangers traffic safety, and herewith causes a danger for the life and body of people, or for the property to a significant extent, shall be punished with a fine, or with imprisonment of up to three years.

(2) A person who commits the crime from item 1 out of negligence shall be punished with a fine, or with imprisonment of up to one year.

### **Unscrupulous traffic supervision**

#### **Article 299**

(1) A responsible person who is entrusted with supervising the state and maintenance of traffic arteries and facilities on them, the means of transportation or the public transportation, or the fulfillment of prescribed work conditions for drivers, or who is entrusted with managing transportation, who by unscrupulous performing of his duty causes a danger for the life and body of people or for property to a significant extent, shall be punished with imprisonment of six months to five years.

(2) The punishment from item 1 shall apply to the responsible person who issues a driving order or who gives permission for transportation, even though he knows that the driver, because of weariness, illness, dizziness or for other reasons, is incapable of safely driving the vehicle, or that the vehicle is not in order, and herewith causes a danger for the life and body of people, and for property to a significant extent.

(3) A person who commits the crime from item 1 out of negligence shall be punished with a fine, or with imprisonment of up to three years.

### **Severe crimes against safety of people and property in traffic**

#### **Article 300**

(1) If because of the crime from article 297 items 1 and 2, 298 item 1, and 299 items 1 and 2, either some person sustains severe body injury or a property damage of a large extent is caused, then the offender shall be punished with imprisonment of one to ten years.

(2) If because of the crime from article 297 items 1 and 2, 298 item 1, and 299 items 1 and 2, death is caused to one or more persons, the offender shall be punished with imprisonment of at least four years.

(3) If because of the crime from article 297 item 3, 298 item 2, and 299 item 3, some person sustains a severe body injury or a property damage is caused of a large extent, the offender shall be punished with imprisonment of three months to three years.

(4) If because of the crime from article 297 item 3, 298 item 2, and 299 item 3, death is caused to one or more persons, the offender shall be punished with imprisonment of one to five years.

### **Failure to help a person injured in a traffic accident**

#### **Article 301**

(1) A driver of a motor vehicle or of some other transportation means who leaves without help a person that was injured by that means of transportation, shall be punished with a fine, or with imprisonment of up to one year.

(2) If because of failure to provide help, a serious body injury or death was sustained by the injured, the offender shall be punished with

imprisonment of three months to five years.

### **Kidnapping an aircraft or ship**

#### **Article 302**

(1) A person, who by force or by serious threat takes over the control over an aircraft during flight or over a ship when sailing, shall be punished with imprisonment of at least one year.

(2) If because of the crime from item 1, death to one or more persons was caused, or the destruction of the aircraft or the ship, the offender shall be punished with imprisonment of at least five years.

(3) If when committing the crime from item 1, the offender kills another with intent, he shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **Endangering air traffic safety**

#### **Article 303**

(1) A person who brings into an aircraft an explosive or similar device or substance, destroys or damages the navigation equipment or causes other damage to the aircraft, gives false information about the flight, improperly or incorrectly controls the flight, omits his duty of supervision over the air traffic safety, or in some other way endangers the safety of the aircraft flight, shall be punished with imprisonment of one to ten years.

(2) If because of the crime from item 1, one or more persons died, or the destruction of the aircraft was caused, the offender shall be punished with imprisonment of at least five years.

(3) If when the crime from item 1 was committed, another was killed with intent, the offender shall be punished with imprisonment of at least ten years, or with life imprisonment.

(4) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to three years.

(5) If because of the crime from item 4, one or more persons died, or the destruction of the aircraft was caused, the offender shall be punished with imprisonment of one to five years.

### **Destruction or removal of a sign that serves for air traffic safety**

#### **Article 304**

A person who destroys, damages or removes a safety sign for air traffic shall be punished with a fine, or with imprisonment of up to three years.

## **28. CRIMES AGAINST THE STATE**

### **High treason**

#### **Article 305**

A person who, by using force or serious threat, tries to change the constitutional system of the Republic of Macedonia, or to bring down the highest state authorities, shall be punished with imprisonment of at least five years.

### **Acknowledging occupation**

#### **Article 306**

A citizen of the Republic of Macedonia, who acknowledges the occupation of the Republic of Macedonia, or a certain part of it, shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **Endangering the territorial integrity**

#### **Article 307**

(1) A person who, by the use of force or serious threat to use force, attempts to occupy, to secede a part of the territory of the Republic of Macedonia, or to annex a part of this territory to some other country, shall be punished with imprisonment of at least five years.

(2) A person who, by the use of force or serious threat to use force, attempts to change the borders of the Republic of Macedonia, shall be punished with imprisonment of at least four years.

### **Endangering the independence**

#### **Article 308**

A citizen of the Republic of Macedonia, who places the Republic of Macedonia in a position of subordination or dependence in relation to

<http://www.legislationline.org/documents/action/popup/id/16066/preview>

some other country, shall be punished with imprisonment of at least five years.

### **Murder of representatives of the highest state authorities**

#### **Article 309**

A person who, with the intention of endangering the constitutional system or security of the Republic of Macedonia, kills the President of the Republic, of the Parliament, of the Government, of the Constitutional Court, or of the Supreme Court of the Republic of Macedonia, shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **Kidnapping representatives of the highest state authorities**

#### **Article 310**

(1) A person who, intending to endanger the constitutional system or the security of the Republic of Macedonia, kidnaps the President of the Republic, of the Parliament, of the Government, of the Constitutional Court, or of the Supreme Court of the Republic of Macedonia, shall be punished with imprisonment of at least three years.

(2) The perpetrator of the crime from item 1 who of own volition lets the kidnapped person go free before being discovered, may be acquitted from punishment.

### **Violence against representatives of the highest state authorities**

#### **Article 311**

A person who, with the intention of endangering the constitutional system or the security of the Republic of Macedonia, by force or by serious threat prevents the President of the Republic, of the Parliament, of the Government, of the Constitutional Court, or of the Supreme Court of the Republic of Macedonia, in the performing of his duty, from doing something, or forces him to do or not to do something, shall be punished with imprisonment of at least four years.

### **Armed rebellion**

#### **Article 312**

(1) A person, who participates in an armed rebellion directed at endangering the constitutional system or the security of the Republic of Macedonia, shall be punished with imprisonment of at least four years.

(2) The organizer or instigator of the rebellion shall be punished with imprisonment of at least five years.

### **Terrorist endangerment of the constitutional order and security**

#### **Article 313**

A person who, with the intention of endangering the constitutional system or the security of the Republic of Macedonia, causes or seriously threatens to cause an explosion, fire, flood, or some other generally dangerous act or act of violence, creating a sense of insecurity or fear among the citizens, shall be punished with imprisonment of at least ten years.

### **Diversion**

#### **Article 314**

A person who, with the intention of endangering the constitutional system or the security of the Republic of Macedonia, destroys or damages an industrial, agricultural or other economic facility, traffic means, communication system, system for supplying water, heat, gas or some other type of energy, a dam or some other facility of a larger importance for the economy or for the regular life of the citizens, shall be punished with imprisonment of at least four years.

### **Sabotage**

#### **Article 315**

A person who, when performing his work duty, with the intention of endangering the constitutional system or the security of the Republic of Macedonia, in a covered up, deceitful or some other way, causes a significant damage to a state authority, institution or legal entity where he works, or to some other state authority, institution or legal entity, shall be punished with imprisonment of at least four years.

### **Espionage**

#### **Article 316**

(1) A person, who discloses a state secret, hands it over or makes it available to a foreign state, organization or to a person that serves them, shall be punished with imprisonment of at least four years.

(2) A person, who creates an intelligence service for a foreign state inside the Republic of Macedonia and manages it, shall be punished



with imprisonment of at least four years.

(3) A person, who enters a foreign intelligence service, collects information for it, or in some other way assists in its work, shall be punished with imprisonment of one to ten years.

(4) A person who collects secret information or documentation, with the intention of telling or handing them over to a foreign state, organization or to a person that serves them, shall be punished with imprisonment of one to ten years.

(5) If the crime from items 1 and 4 is committed during war or direct military threat, or if it caused serious consequences for the security, or for the economic or military power of the Republic, the offender shall be punished with imprisonment of at least four years.

(6) A state secret is considered to be the information or documents which by law or by some other regulation, or by the decision of a competent authority which is passed based on the law, are declared to be a state secret, and whose disclosure has or could have damaging consequences for the political, economic or military interests of the Republic of Macedonia.

### **Disclosing a state secret**

#### **Article 317**

(1) A person who tells, hands over or makes available an entrusted state secret to the public or to an unauthorized person, shall be punished with imprisonment of one to ten years.

(2) A person who tells, hands over or makes available to the public or to an unauthorized person, information or documents for which he knows are a state secret, and which he acquired in an unlawful manner, shall be punished with imprisonment of one to five years.

(3) If the crime from item 1 is committed during war or direct military danger, or which has caused an endangering of the security, of the economic or military power of the Republic of Macedonia, the offender shall be punished with imprisonment of at least four years.

(4) If the crime from item 1 is committed out of negligence, the offender shall be punished with imprisonment of six months to five years.

### **Calling out for a violent change of the constitutional system**

#### **Article 318**

A person who, with the intention of endangering the constitutional system or the security of the Republic of Macedonia, publicly or by spreading papers perform or supports the performing for or instigates a direct perpetration of the crimes from articles 307 to 317, shall be punished with imprisonment of three months to five years.

### **Causing national, racial or religious hate, discord and intolerance**

#### **Article 319**

(1) A person who by force, mistreatment, endangering the security, ridicule of the national, ethnic or religious symbols, by damaging other people's objects, by desecration of monuments, graves, or in some other manner causes or excites national, racial or religious hate, discord or intolerance, shall be punished with imprisonment of one to five years.

(2) A person, who commits the crime from item 1 by misusing his position or authorization, or if because of these crimes, riots and violence were caused among people, or a property damage with a large extent was caused, shall be punished with imprisonment of one to ten years.

### **Violation of the territorial sovereignty**

#### **Article 320**

A person who, with the intention of endangering the constitutional system or the security of the Republic of Macedonia, enters onto the territory of the Republic of Macedonia by violating the regulations of international law, shall be punished with imprisonment of one to five years.

### **Preventing combat against the enemy**

#### **Article 321**

(1) A citizen of the Republic of Macedonia who, during war or during an armed conflict, prevents the citizens of the Republic of Macedonia or the citizens of its allies to carry on combat against the enemy, shall be punished with imprisonment of at least four years.

(2) A citizen of the Republic of Macedonia who, during war or during an armed conflict, dissuades the citizens of the Republic of Macedonia or the citizens of its allies, to carry on combat against the enemy, shall be punished with imprisonment of at least one year.

### **Service in an enemy army**

#### **Article 322**

(1) A citizen of the Republic of Macedonia who, during war or during an armed conflict, serves in an enemy army or in some other military formation of the enemy, or participates in a war or an armed conflict as a soldier against the Republic of Macedonia or its allies, shall be punished with imprisonment of at least three years.

(2) A person who recruits a citizen of the Republic of Macedonia for service in an enemy army or in some other armed formation of the enemy, or for participation in a war or armed conflict against the Republic of Macedonia or its allies, shall be punished with imprisonment of at least four years.

### **Helping the enemy**

#### **Article 323**

A citizen of the Republic of Macedonia, who during war helps the enemy in conducting a requisition, confiscation of food or other goods, or in implementing other measures of coercion against the population, shall be punished with imprisonment of at least one year.

### **Association for enemy activity**

#### **Article 324**

(1) One that makes conspiracy, gang, group or other association of people or organization for performing crimes stipulated in the articles 305 through 311, 312, 313, 314, 315, 321 and 322, paragraph

(2), shall be sentenced with imprisonment of at least four years.

(2) A person, who becomes a member of the association from item 1, shall be punished with imprisonment from one to five years.

(3) The perpetrator of the crime from item 1, who by disclosing the association or in some other way prevents the perpetration of the crimes foreseen in item 1, shall be punished with imprisonment of three months to three years, and he may be acquitted from punishment.

(4) A member of an association from item 1, who discloses the association before he commits some crime foreseen in that item, as a member of this association or for it, shall be acquitted from punishment.

(5) The objects and means intended for preparation of the crimes, as well as the finances of the association shall be confiscated.

### **Sheltering and assisting an offender after a crime was committed**

#### **Article 325**

(1) A person who hides a perpetrator of a crime from articles 305 to 317 and 324, gives him shelter, food, money or other means, serves him for maintaining contact, performs actions for preventing his discovery or capture, or in some other way provides assistance to him, shall be punished with imprisonment of one to ten years.

(2) The punishment from item 1 may not be more severe, by kind nor by degree, than the punishment prescribed for the crime that was perpetrated by the offender to whom help was provided.

(3) A person shall not be punished, for whom the offender of the crimes listed in item 1 is a marital partner, a person living with him in a permanent extra-marital community, a blood relation of the first degree, a brother or a sister, an adoptive parent or adoptive child, as well as their marital partners or the persons who live in a permanent extra-marital community with them.

### **Punishment for preparation**

#### **Article 326**

A person who prepares the committing of a crime (article 18 item 3) from article 309, 312, 313 and 314, shall be punished with imprisonment of three to ten years.

### **Punishment for the most severe forms of crimes**

#### **Article 327**

(1) If by the crime from article 305, article 307, and from articles 312 to 315, a death of one or more persons was caused, or if a property damage of a large extent was caused, the offender shall be punished with imprisonment of at least ten years.

(2) If during the perpetration of the crime from item 1 the offender killed one or more persons with intent, he shall be punished with imprisonment of at least ten years, or with life imprisonment.

(3) The punishment from item 2 shall apply also to a person who commits a crime from articles 305, 306 and 307, articles 312 to 316 and article 324, during war or under direct military danger.

## **29. CRIMES AGAINST THE ARMED FORCES**

### **Failure or refusal to execute a command**

**Article 328**

(1) A military person who does not execute or refuses to execute an order from his superior, in connection with his duty, and herewith causes more serious consequences for the service, or the service was endangered more seriously, shall be punished with imprisonment of three months to three years.

(2) A military person, who out of negligence does not execute the order from his superior from item 1, shall be punished with a fine, or with imprisonment of up to one year.

(3) There is no crime if the military person refuses to execute an unlawful command.

**Refusal to accept or use arms****Article 329**

(1) A military person, who except for the case determined by law, refuses to accept arms or to use them, on command or according to the regulations of the service, shall be punished with imprisonment of one to five years.

(2) A military conscript who without justified reason refuses to accept arms from the competent authority, which except in the cases specified by the law are issued to him in connection with the service in the reserves of the military forces, shall be punished with imprisonment of three months to three years.

**Opposing a superior****Article 330**

(1) A military person, who together with other military persons opposes an order from a superior in connection with the duty, and who does not want to execute or refuses to execute his duty, shall be punished with imprisonment of three months to five years.

(2) If the crime from item 1 is committed in an organized manner, the offender shall be punished with imprisonment of one to ten years.

(3) If the crime from items 1 and 2 is committed with the use of arms, the offender shall be punished with imprisonment of at least one year.

(4) The military person who during the perpetration of the crime from item 3 kills another because of negligence, shall be punished with imprisonment of at least three years.

(5) A military person who during the perpetration of the crime from items 1 and 2 kills another with intent, shall be punished with imprisonment of at least five years, or with life imprisonment.

(6) A military officer, who in the case of the crime from items 1, 2 and 3 and item 5 fails to undertake the necessary measures to restore order, shall be punished with imprisonment of one to five years.

**Opposition to a sentry, guard, patrol, duty officer or other military person on similar duty****Article 331**

A military person who opposes a sentry, guard, patrol, or duty officer, or some other military person on similar duty, while performing his official duty, as well as a military person who does not answer their call or does not execute or refuses to execute their order, and because of this more serious consequences for the service are caused or the service was more seriously endangered, shall be punished with imprisonment of six months to three years.

**Coercion towards a military person in performing his official duty****Article 332**

(1) A person who, by force or by threatening to directly use force, prevents a military person in performing an official duty, or forces him to perform an official duty, shall be punished with imprisonment of six months to three years.

(2) The attempt of the crime from item 1 is punishable.

(3) If because of perpetration of the crime from item 1 serious consequences for the service were caused, the offender shall be punished with imprisonment of six months to five years.

**Attack upon a military person while performing his official duty****Article 333**

(1) A person who attacks or seriously threatens to attack a military person who is performing his duty, shall be punished with a fine, or with imprisonment of up to three years.

(2) If when the crime from item 1 was committed, the offender caused a body injury to the military person, or threatened with the use of

a weapon, he shall be punished with imprisonment of six months to five years.

(3) If when the crime from item 1 was committed, a military person sustained a serious body injury, or serious consequences for the service were caused, the offender shall be punished with imprisonment of one to ten years.

(4) If when the crime from item 1 was committed, the offender killed a military person with intent, he shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **More lenient punishment for crimes from article 328 and articles 330 to 333**

#### **Article 334**

If the offender of the crimes from article 328 items 1 and 3, article 330 item 1, article 331, article 332 items 1 and 2, and article 333 items 1 and 2, was provoked by an unlawful or rude behavior by the military person, he may be punished more leniently or acquitted from punishment.

### **Mistreatment of a subordinate or younger person**

#### **Article 335**

(1) A military officer who, in the service or in connection with the service, mistreats a subordinate or a younger person, or behaves with him in a manner insulting to human dignity, shall be punished with imprisonment of three months to three years.

(2) If the crime from item 1 was committed against several persons, the offender shall be punished with imprisonment of one to five years.

### **Violation of a guard, patrol or similar duty**

#### **Article 336**

(1) A military person who acts in contrary to the regulations for guard patrol duty, for duty of a duty officer or for other similar duty, and because of this more serious consequences for the service are caused, or the service was more seriously endangered, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 was committed at a warehouse for arms, ammunition or explosive materials, or at some other facility of a great importance, the offender shall be punished with imprisonment of three months to three years.

(3) If because of the crime from items 1 and 2, some person sustained a serious body injury, or a property damage of a large extent was caused, or some other serious consequences were caused, the offender shall be punished with imprisonment of six months to five years.

(4) If because of the crime from items 1 and 2, some person died, the offender shall be punished with imprisonment of one to ten years.

(5) If the crimes from items 1 to 4 are committed out of negligence, the offender shall be punished for the crime from item 1 with imprisonment of up to six months; for the crime from item 2 with a fine or with imprisonment of up to one year; for the crime from item 3 with a fine or with imprisonment of up to three years; for the crime from item 4 with a fine or with imprisonment of up to five years.

### **Violation of guarding the state border**

#### **Article 337**

(1) A military person who, while performing his duty at the border, acts in contrary to the regulations for guarding the state border, and because of this more serious consequences for the service are caused, or the service was more seriously endangered, shall be punished with imprisonment of three months to three years.

(2) If because of the crime from item 1 a serious body injury was sustained, or a property damage of a large extent or some other serious consequences were caused, the offender shall be punished with imprisonment of six months to five years.

(3) If because of the crime from item 1 another died, the offender shall be punished with imprisonment of one to ten years.

(4) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to one year.

(5) If because of the crime from item 4, the consequence from item 2 was caused, the offender shall be punished with a fine, or imprisonment of up to three years; and if the consequence from item 3 was caused, the offender shall be punished with imprisonment of one to five years.

### **Submitting untruthful reports and statements**

#### **Article 338**

(1) A military person who, while performing his duty, submits a report or statement with untrue contents, or in a report or statement omits some fact which should not have been omitted, and because of this more serious damaging consequences are caused for the

service, or the service was more seriously endangered, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 was committed by submitting a report or statement of special importance, because of which serious consequences were caused, the offender shall be punished with imprisonment of one to five years.

(3) If the crime from item 2 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to one year.

#### **Failure to undertake measures for protection of a military unit**

##### **Article 339**

(1) A military officer who does not undertake the prescribed, ordered or other evidently necessary measures for protection of the lives and health of the people that are entrusted to him, for the safety and maintenance in good functioning order of the facilities, objects and equipment which serve for combat readiness, for an orderly supply of the unit entrusted to him with food, equipment and material, for keeping and care of livestock, or for a timely and regular execution of security actions or guarding of the facilities that are entrusted to him, and with this brings into danger the life of the people or seriously endangers the health of people or the property of a large value, shall be punished with a fine, or with imprisonment of up to three years.

(2) If because of the crime from item 2, a serious body injury was sustained, or if a property damage of a larger extent or other serious consequences were caused, the offender shall be punished with imprisonment of six months to five years.

(3) If because of the crime from item 1 another dies, the offender shall be punished with imprisonment of one to ten years.

(4) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to one year.

(5) If because of the crime from item 4, the consequence from item 2 was caused, the offender shall be punished with a fine, or with imprisonment of up to three years; and if the consequence from item 3 was caused, the offender shall be punished with imprisonment of one to five years.

#### **Lack of security during military exercises**

##### **Article 340**

(1) A military person who during exercises, training or in performing an experiment, does not undertake the prescribed, ordered or evidently necessary measures of security or precaution, and herewith brings into danger the life of people or seriously endangers the health of people or property of a large value, shall be punished with a fine, or with imprisonment of up to three years.

(2) If because of the crime from item 2, a serious body injury was sustained, or if a property damage of a larger extent or other serious consequences were caused, the offender shall be punished with imprisonment of six months to five years.

(3) If because of the crime from item 1 another dies, the offender shall be punished with imprisonment of one to ten years.

(4) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to one year.

(5) If because of the crime from item 4, the consequence from item 2 was caused, the offender shall be punished with a fine, or with imprisonment of up to three years; and if the consequence from item 3 was caused, the offender shall be punished with imprisonment of one to five years.

#### **Not responding to a summons and avoiding military service**

##### **Article 341**

(1) A person who without justified reason does not come at the determined time for recruitment, for notification on the military disposition or acceptance of arms, or for serving the military service, a military exercise or some other military service, even though he was summoned with an individual or with a general summons, or public invitation, shall be punished with a fine, or with imprisonment of up to one year.

(2) A person who hides in order to avoid the obligation from item 1, even though he was summoned with an individual or with a general summons, shall be punished with imprisonment of three months to three years.

(3) A person who leaves the country, or remains abroad, in order to avoid recruitment or serving the military service, military exercise or some other military service, shall be punished with imprisonment of one to five years.

(4) A person who calls out or instigates several people to commit the crimes from items 1, 2 and 3, shall be punished for the crime from item 1 with a fine or with imprisonment of up to three years; and for the crime from items 2 and 3, with imprisonment of one to ten years.

(5) The perpetrator of the crime stipulated in the paragraphs 2 and 3 will report voluntarily to the relevant state authority can be sentenced with smaller sentence or can be pardoned.

**Avoiding military service by incapacitating or deceit****Article 342**

(1) A person who, with the intention of avoiding military service or to be dispositioned to an easier duty, wounds himself or in some other manner incapacitates himself for military service temporarily, or who permits another to incapacitate him temporarily, as well as a person who, with or without his permission, incapacitates temporarily another with the same intention, shall be punished with imprisonment of three months to five years.

(2) If by committing the crime from item 1 a permanent disability for military service was caused, the offender shall be punished with imprisonment of one to five years.

(3) A person who, with the intention from item 1, simulates an illness, or for himself or for another uses a false document, or acts in some other deceitful manner, shall be punished with imprisonment of three months to three years.

**Unlawful exemption from military service****Article 343**

A person who by misusing his position or authorization enables exemption from duty, or disposition to an easier duty, of a military person or a person who is subject to military duty, shall be punished with imprisonment of one to five years.

**Self-willed going away or escape from the armed forces****Article 344**

(1) A military person who leaves his unit or service of his own will and who does not return to duty within ten days, or within the same period does not return from a leave of absence from the unit or service, shall be punished with a fine, or with imprisonment of up to one year.

(2) The punishment from item 1 shall apply also to a military person who more than twice and less than ten days remains away from his unit or service without permission.

(3) A military person who abandons his unit or service of his own will, during the execution of an important task or during an increased level of combat readiness of the unit, shall be punished with imprisonment of three months to three years.

(4) A military person who hides in order to avoid service in the armed forces, or who abandons his unit or service of his own will and does not return to duty within thirty days, or who does not return from a leave of absence from the unit or service within the same period, shall be punished with imprisonment of six months to five years.

(5) A military person, who leaves the country or remains abroad in order to avoid the service in the armed forces, shall be punished with imprisonment of one to ten years.

(6) A military person, who prepares an escape abroad in order to avoid service in the armed forces, shall be punished with imprisonment of six months to five years.

(7) The offender of the crime from items 3 and 4, who of own volition reports himself to the competent state authority, may be punished more leniently.

**Unscrupulous manufacturing and taking over of military material****Article 345**

(1) A military person or some other person who - in an enterprise, in some other organization, community or institution which works for the needs of defense - is entrusted with the management and control of the production or with some other economic process, or with supervision over them, who performs unscrupulously the task entrusted to him, and because of this, the weapons, ammunition, explosives and other combat materials are not manufactured on time, or they do not correspond to the prescribed quality, shall be punished with imprisonment of three months to three years.

(2) The punishment from item 1 shall apply to a military person who, unscrupulously performing his duty, accepts supply goods, equipment or army weapons that do not correspond to the prescribed conditions or to the agreement.

(3) If because of the crime from items 1 and 2, serious consequences were caused, the offender shall be punished with imprisonment of one to five years.

(4) If the crimes from items 1 and 2 are committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to one year.

(5) If because of the crime from item 4, the consequence from item 3 was caused, the offender shall be punished with imprisonment of three months to three years.

**Irregular and careless conduct towards the entrusted weapons**

**Article 346**

(1) A person who irregularly or carelessly holds, keeps or handles the entrusted weapons, ammunition or explosives, which belong to a military unit or to a military institution, and herewith causes their damage to a larger extent, destruction or disappearance, shall be punished with a fine, or with imprisonment of up to one year.

(2) An operator of a warehouse for weapons, ammunition, explosives and other combat equipment, who does not undertake measures for their security or maintenance, and because of this, a damage, destruction or disappearance of this combat equipment is caused, shall be punished with imprisonment of three months to five years.

(3) If because of the crime from item 2 a property damage of a large extent was caused, the offender shall be punished with imprisonment of one to ten years.

(4) If the crime from item 2 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to three years.

(5) If because of the crime from item 4, the consequence from item 3 was caused, the offender shall be punished with imprisonment of three months to five years.

**Unlawful disposing over entrusted weapons****Article 347**

A person who usurps, transfers, pawns, hands over to another for use, damages or destroys weapons, ammunition or explosives which are entrusted to him for use, and which serve for the needs of defense of the Republic of Macedonia, shall be punished with imprisonment of six months to five years.

**Theft of weapons or of part of combat equipment****Article 348**

(1) A person who steals weapons, ammunition, explosives or a part of combat equipment that serves for the needs of defense of the Republic of Macedonia, shall be punished with imprisonment of three months to five years.

(2) If the value of the objects from item 1 exceeds a larger property value, or if the theft was committed by breaking in or by burglary into closed buildings, rooms, safes, chests or other closed premises, or by several persons who associated themselves for committing the theft, or in an especially dangerous and insolent manner, or by a person who carried a weapon or dangerous tool for attack or defense, or during a fire, flood or similar disaster, the offender shall be punished with imprisonment of one to ten years.

(3) If the value of the objects from item 1 is significant, the offender shall be punished with imprisonment of at least five years.

**Disclosing a military secret****Article 349**

(1) A military or some other person, who in contrary to his duties of keeping a military secret, tells, hands over to another or in some other way makes available information which is a military secret, or who acquires such information with the intention of handing it over to an unauthorized person, shall be punished with imprisonment of three months to five years.

(2) If the crime from item 1 was committed out of self-interest, or in regard to especially confidential information, or because of publication or use of the information abroad, the offender shall be punished with imprisonment of at least one year.

(3) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to three years.

(4) A military secret is considered to be information and documents which by law, by some other regulation or by decision of a competent authority, passed based on a law, have been declared to be a military secret, and whose disclosure has or could have more serious damaging consequences for the armed forces, or for their preparation for defense of the Republic of Macedonia.

**Unauthorized entry into military facilities and making sketches or drawings of military facilities and combat equipment****Article 350**

(1) A person who enters without authorization a military facility for the purpose of reconnaissance, even though he knows that entrance is prohibited, shall be punished with a fine, or with imprisonment of up to one year.

(2) A person who without authorization makes sketches or drawings of military facilities, or of combat equipment, or photographs, respectively in some other manner records them, shall be punished with a fine, or with imprisonment of up to three years.

**Conditions for pronouncing a disciplinary punishment, respectively measure****Article 351**

A military person may be sentenced to a disciplinary punishment, respectively to a measure determined by law, instead of to a criminal sanction, for a crime against the armed forces for which a punishment of up to three years is prescribed, if the crime received an especially light form, and if the interests of the service request this.

### **Responsibility for a crime committed on orders from a superior**

#### **Article 352**

A subordinate shall not be punished if he commits a crime on orders from his superior, while that order concerned the official duty, except if the order was directed towards committing a war crime or some other serious crime, or if he knew that the execution of the order represents a crime.

### **30. CRIMES AGAINST OFFICIAL DUTY**

#### **Misuse of official position and authorization**

##### **Article 353**

(1) An official person who, by using his official position or authorization, by exceeding the limits of his official authorization, or by not performing his official duty, acquires for himself or for another some kind of benefit, or causes damage to another, shall be punished with imprisonment of six months to three years.

(2) If the perpetrator of the crime from item 1 acquires a larger property gain, or causes a larger property damage, or violates the rights of another more severely, he shall be punished with imprisonment of six months to five years.

(3) If the perpetrator of the crime from item 1 acquires a significant property gain or causes a significant damage, he shall be punished with imprisonment of at least three years.

(4) Responsible person in the foreign legal entity which has an representative office in Macedonia or a performs some economic activities in Macedonia or a entity who is performing activities from public interest will be punished with the punishment determined in the lines 1,2 and 3, if the act is done during his special authorization or duty.

(5) If the crime stipulated in paragraphs (1) and (4) is performed during execution of public purchases or causing damage to the finances of the Budget of the Republic of Macedonia, public funds or other state owned finances, the perpetrator shall be sentenced with imprisonment of at least five years.

#### **Violation of the guarding of the border**

##### **Article 353-a**

(1) Official person, who will act against the regulations for guarding of the state border during performing duty on the border, and as a result of that severe harmful effects for the authority can occur or the authority is severely damaged, shall be sentenced with imprisonment of three months to three years.

(2) If severe body injury or material damage of large scale or other severe consequences occurred as a result of the crime stipulated in paragraph 1, the perpetrator shall be sentenced with imprisonment of six months to five years.

(3) If death of a person occurs as a result of the crime stipulated in paragraph 1, the perpetrator shall be sentenced with imprisonment of one to ten years.

(4) If the crime stipulated in paragraph 1 is performed due to negligence, the perpetrator shall be sentenced with a fine or imprisonment up to one year.

(5) If a consequence stipulated in the paragraph 2 occurs due to the crime stipulated in paragraph 4, the perpetrator shall be sentenced with a fine or imprisonment up to three years, and if a consequence stipulated in paragraph 3 occurs, the perpetrator shall be sentenced with imprisonment of one to five years.

#### **Non-execution of an order**

##### **Article 353-b**

(1) Official person who, during the execution of the duty regarding prevention and investigation of crimes, finding the stipulators of crimes or maintaining the public order, peace and safety of the country, does not execute or refuses to execute order of a superior to take an official action and as a result of that severe breach of the rights of other, severe disturbance of the public order and peace or greater material damage occur, shall be sentenced with imprisonment of three months to three years.

(2) Official person that will not execute the superior's order stipulated in paragraph 1 due to negligence, shall be sentenced with a fine or imprisonment up to one year.

(3) It is not a crime if the official person refuses to execute an illegal order.



## **Unprincipled operation within the service**

### **Article 353-c**

(1) Official person or authorized person in public enterprise or public institution who, through breach of the legal regulations for conflict of interest or for principled action during performing discretion authority, with omission of relevant monitoring or in other way obviously incorrectly acts in performing of his/her authorities and as a result of that will obtain some benefit for himself/herself or for other person or will cause damage to somebody, shall be sentenced with imprisonment of three months to three years.

(2) If the perpetrator of the crime stipulated in paragraph 1 obtains greater material gain or cause greater material damage or severely breaks the rights of other, shall be sentenced with imprisonment of six months to five years.

(3) If the perpetrator of the crime stipulated in paragraph 1 obtains significant material gain or cause significant material damage, shall be sentenced with imprisonment of one to ten years.

(4) The sentence stipulated in the paragraphs 1, 2 and 3 shall be imposed on the responsible person, responsible person in foreign legal entity which has a representation office in the Republic of Macedonia or person that performs activity of public interest, if the crime is performed during his/her special authority or duty, determined by the law.

## **Embezzlement in the service**

### **Article 354**

(1) An official person who, with the intention of acquiring unlawful property gain for himself or for another, usurps money, securities or other movable objects that are entrusted in the service, shall be punished with imprisonment of six months to five years.

(2) If the perpetrator of the crime from item 1 acquired a larger property gain, he shall be punished with imprisonment of one to ten years.

(3) If the perpetrator of the crime from item 1 acquired a significant property gain, he shall be punished with imprisonment of at least four years.

(4) If the perpetrator of the crime from item 1 acquired a small property gain, and if he wanted to acquire such a property gain, he shall be punished with a fine or with imprisonment of up to one year.

(5) The sentence referred to in paragraphs (1), (2) and (3) of this article shall be applied for a responsible person, responsible person in foreign legal entity with representative office in the Republic of Macedonia or a person performing activities of public interest, if the crime has been committed during the performance of the person's special authorization or duty, as determined by law.

## **Defraud in the service**

### **Article 355**

(1) An official person who, when performing his service, with the intention to acquire an unlawful property gain for himself or for another, by submitting false invoices or in some other way, deceives the authorized person to effect an unlawful payment, shall be punished with imprisonment of six months to five years.

(2) If with the crime from item 1 a larger property gain was acquired, the offender shall be punished with imprisonment of one to ten years.

(3) If with the crime from item 1 a significant property gain was acquired, the offender shall be punished with imprisonment of at least three years.

## **Helping oneself in the service**

### **Article 356**

An official person who without authorization helps himself to money, securities or other movable objects entrusted in the service, or he gives these objects without authorization to another to help himself, shall be punished with imprisonment of three months to five years.

## **Receiving a bribe**

### **Article 357**

(1) An official person who directly or indirectly asks or accepts a gift or other benefit or accepts promise for a gift or other benefit for himself/herself or for another person so as to perform within his/her official authorization an official activity which must not be performed or fails to perform official activity which must be performed, shall be sentenced to imprisonment of four to ten years.

(2) An official person who directly or indirectly asks or accepts a gift or other benefit or accepts promise for gift or other benefit for himself/herself or for another person so as to perform within his/her official authorization an official activity which must be performed or not to perform official activity which must not be performed,

shall be sentenced to imprisonment of one to five years.

(3) An official person who, after the official act listed in item 1 and 2 of this article is committed or not committed, requests or receives a present or some other benefit in connection with this, shall be punished with imprisonment of three months to three years.

(4) If a larger property gain has been obtained through the crime, the perpetrator shall be sentenced to imprisonment of at least four years.

(5) If a significant property gain has been attained through the crime, the perpetrator shall be sentenced to imprisonment of at least five years.

(6) The sentence referred to in paragraphs (1), (2) and (3) of this article shall be also applied for a responsible person who performs activities of public interest, responsible person in foreign legal entity, as well as foreign official person if the crime has been performed with violation of his/her authorizations, in relation to acquisition, exercise or deprivation of rights determined by law or for the reason of obtaining gain or causing damage to someone else.

(7) The received present or acquired property gain shall be confiscated.

### **Giving a bribe**

#### **Article 358**

(1) A person who directly or indirectly gives, promises or offers a gift or other benefit to an official person or another person so that the latter would perform within his/her official authorization an official activity which must not be performed or would not perform an official activity which must be performed, or a person who acts as an intermediary in such process, shall be sentenced to imprisonment of one to five years.

(2) A person who directly or indirectly gives, promises or offers a gift or other benefit to an official person or another person so that the latter would perform within his/her official authorization an official activity which must be performed or would not perform official activity which must not be performed, or a person who acts as an intermediary in such process, shall be sentenced with a fine or imprisonment of up to three years.

(3) The offender from items 1 and 2, who gave bribe upon the request from the official person, and who reports this before he finds out that the crime was discovered, shall be acquitted from punishment.

(4) The provisions from items 1, 2 and 3 shall apply also when the bribe was given or promised to a responsible person, in connection with the crime from article 357.

(5) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine

(6) The given present or property gain shall be confiscated, and in the case of item 3, they shall be returned to the person who gave the bribe.

### **Unlawful mediation**

#### **Article 359**

(1) A person who receives a reward or some other benefit by using his official or social position and influence, in order to mediate for some official act to be executed or not, shall be punished with a fine, or with imprisonment of up to three years.

(2) A person who, by using his official or social position or influence, mediates for the performing of an official act which should not be performed, or not to perform an official act which otherwise should be performed, shall be punished with imprisonment of six months to five years.

(3) If the crime from item 2 was committed in connection with initiating or carrying on a criminal procedure (litigation) against a certain person, the offender shall be punished with imprisonment of one to five years.

(4) A person who, by using his official or other, position, general reputation or influence, for reward or other material benefit mediate at person in charge, responsible person in foreign legal entity who is performing activity in Republic of Macedonia, or a person who is performing acts from public interest performs or do not performs act which is in contrary to his duty or at foreign legal entity performs or do not performs act which is in contrary to his duty or citizen or legal entity, shall be punished with fine or imprisonment up to one year.

(5) If the act from item 4 has a consequence unlawful earning or losing wrights, earning greater property benefit or making greater harm and damage to other person, domestic or foreign legal entity, the perpetrator shall be punished with imprisonment from three months to three years.

(6) If a reward or some other benefit was received for the mediation from items 2 and 3, the offender shall be punished with imprisonment of one to ten years.

(7) If the crime referred to in this article is committed by a legal entity, it shall be sentenced with a fine.

### **Illicit enrichment and concealment of property**

#### **Article 359-a**

(1) An official person or responsible person in public enterprise, public institution or other legal entity who disposes of state capital, and contrary to the legal obligation to report property status or its change provides false or incomplete information for his/her property or for the property of his/her family members, which significantly exceeds his/her legal income,

shall be sentenced to imprisonment of six months to five years and with a fine.

(2) The sentence referred to in paragraph (1) of this article shall be applied for an official person or responsible person in public enterprise, public institution or other legal entity that disposes of state capital, when it is established in legally determined procedure that in the course of holding a position or performing duty he/she or a member of his/her family has obtained property which significantly exceeds his/her legal incomes, has provided false data or conceals the real sources of the property.

(3) If the crime referred to in paragraphs (1) and (2) of this article is committed in terms of property that largely exceeds the perpetrator's legal incomes, she/he

shall be sentenced to imprisonment of one to eight years and with a fine.

(4) The perpetrator shall not be punished for the actions referred to in paragraphs (2) and (3) of this article, if he/she provides acceptable explanation about the origin of the property during the procedure before the court.

(5) The property exceeding the incomes that the perpetrator legally obtains and for which the perpetrator has provided false or incomplete data or has not provided data or has concealed its real sources, shall be confiscated, and if the confiscation is not possible, then other property of the perpetrator of equivalent value shall be confiscated.

(6) The property referred to in paragraph (5) of this article shall be confiscated from the members of perpetrator's family for which the property has been obtained or to whom it has been transferred if it is evident that they have not provided compensation equivalent to its value, as well as from third persons if they do not prove that they have provided compensation equivalent to its value.

### **Disclosing an official secret**

#### **Article 360**

(1) A person who tells, hands over, or in some other manner makes available information to the public or to an unauthorized person, which represents an official secret, or acquires such information with the intention to tell or hand over to the public or to an unauthorized person, shall be punished with imprisonment of three months to five years.

(2) If the crime from item 1 was committed out of self-interest, or for the use of the information abroad, the offender shall be punished with imprisonment of at least one year.

(3) If the crime from item 1 was committed out of negligence, the offender shall be punished with a fine, or with imprisonment of up to three years.

(4) An official secret is considered to be information or documents which by law, by some other regulation or by decision of a competent authority, passed based on a law, have been declared to be an official secret, and whose disclosure has or could have damaging consequences for the service.

### **Misuse of state, official or military secret**

#### **Article 360-a**

(1) Official person that will use data, which is state, official or military secret with intention to obtain some gain for himself/herself or cause damage to other person, shall be sentenced with imprisonment of three months to five years.

(2) The sentence stipulated in paragraph 1 shall be imposed to one that, after the cease of the service, with the same intention, will use such data or will tell, give or make them available to other person.

### **Falsifying an official document**

#### **Article 361**

(1) An official person who in an official document, book, or paper, enters untruthful information, or does not enter some important data, or with his signature, respectively with an official stamp, verifies an official document, book or paper with untruthful contents, or with his signature, respectively an official stamp, enables the making of an official document, book or paper with untruthful contents, shall be punished with imprisonment of three months to five years.

(2) The punishment from item 1 shall apply also to an official person who uses the documents from that item in the service as if they were real, or destroys them, covers them up, or damages them to a larger extent or in some other way makes them useless.

(3) A responsible person in a legal entity which disposes over state or social property, who commits the crimes from items 1 and 2, shall be punished with the punishment that is prescribed for those crimes.

### **Unlawful collection and payment**

#### **Article 362**

An official person or responsible person in a legal entity which disposes over state or social property, who collects an amount from another which this person is not obliged to pay, or collects more than this person is obliged to pay, or who during pay out or handing over of objects, pays out or hands over less than he was obliged to do, shall be punished with a fine, or with imprisonment of up to three years.

### **Prosecution of crimes committed during performance of official duty**

#### **Article 362-a**

For the crimes referred to in Articles 357, 358 and 359 of this Code committed abroad by a person who is not a citizen of the Republic of Macedonia, the prosecution shall be undertaken after upon approval of the Chief Public Prosecutor of the Republic of Macedonia.

### **Compulsory pronouncement of the sentence prohibition to perform a profession, activity or duty**

#### **Article 362-b**

Under the conditions prescribed in Article 38-b of this code, for the crimes specified in Articles 357, 358 and 359, the Court shall determine a sentence for the perpetrator prohibition to perform profession, activity or duty for a period of one to ten years.

## **31. CRIMES AGAINST THE JUDICIARY**

### **Failure to report the preparation of a crime**

#### **Article 363**

(1) A person who knows that the perpetration of a crime is being prepared, for which according to the law a punishment of imprisonment of five years or more may be pronounced, and who did not report this during the time when it was still possible to prevent its perpetration, while the crime was attempted or committed, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the preparation of a crime was not reported, for which according to law a punishment may be pronounced of life imprisonment, the offender shall be punished with imprisonment of one to five years.

(3) A person shall not be punished for not reporting the preparations for a crime from item 1 for whom the offender is a marital partner, blood relation of the first line, brother or sister, adoptive parent or adoptive child, or a person living with the offender in a permanent extra-marital community.

### **Not reporting a crime or an offender**

#### **Article 364**

(1) An official person who consciously omits to report a crime that he found out about while performing his duty, if according to the law a punishment may be pronounced for this crime of imprisonment of five years or more, while the crime is prosecuted in line of duty, shall be punished with a fine, or with imprisonment of one to three years.

(2) With the punishment of the item 1 shall be punished the one who intentionally will fail to report criminal act from the articles: 123, 141, 142, 158, 162, 165, 165-a, 186, 187, 188, 215, 216, 231, 232, 236, 237, 238, 258, 259, 268, 269, 273, articles from 305 to 326, 348, 349, articles from 353 to 362, 382, 383, 394, 394-a, 396 and articles from 403 to 422.

(3) A person shall not be punished for the crime from items 1, for whom the offender is a marital partner, blood relation of the first line, brother or sister, adoptive parent or adoptive child, or a person living with the offender in a permanent extra-marital community.

### **Helping an offender after a crime was committed**

#### **Article 365**

(1) A person who hides the offender of a crime for which prosecution is undertaken in line of duty, or by covering up the tools, traces, objects, or in some other way helps him not to be found, or the person who hides a sentenced person or undertakes other actions that are directed towards a non-execution of the sentence, of the pronounced security measures or not to apply the educational measures - sending to an educational institution or to an educational-correctional home, shall be punished with a fine, or with imprisonment of up to one year.

(2) A person who provides help to a perpetrator of a crime, for which a punishment is prescribed of imprisonment of five years or more, shall be punished with imprisonment of three months to five years.

(3) A person who provides help to an offender of a crime for which a punishment is prescribed of life imprisonment, shall be punished with imprisonment of one to ten years.

(4) The punishment from item 1 may not be more severe either by type or by level of punishment that is prescribed for the crime that was committed by the offender.

(5) A person shall not be punished for the crime from items 1 to 3 for whom the offender is a marital partner, blood relation of the first line, brother or sister, adoptive parent or adoptive child, or a person living with the offender in a permanent extra-marital community.

### **False reporting of a crime**

#### **Article 366**

(1) A person who reports that another committed a crime for which the prosecution is undertaken in line of duty, and he knows this person is not an offender, shall be punished with imprisonment of three months to three years.

(2) A person who by planting traces or objects of a crime, or in some other manner causes the initialization of a criminal procedure for a crime for which prosecution is undertaken in line of duty, against a person for whom he knows has not done it, shall be punished with imprisonment of one to three years.

(3) A person who reports that he has committed a crime for which prosecution is undertaken in line of duty, even though he had not committed it, shall be punished with a fine, or with imprisonment of up to three months.

(4) The punishment from item 3 shall apply also to a person who reports that a crime has been committed, for which prosecution is undertaken in line of duty, even though he knows that this crime has not been committed.

### **Submitting false evidence**

#### **Article 366-a**

(1) One that in procedure in front of a court or in administrative procedure will submit evidence for which he/she knows that are false, shall sentenced with imprisonment of one to three years.

(2) The sentence stipulated in paragraph 1 shall be imposed on one that will remove or destroy evidence that are significant for a procedure in front of a court or in administrative procedure.

### **Giving a false statement**

#### **Article 367**

(1) A witness, expert, translator or interpreter who gives a false statement before the court or in an administrative, petty offense or disciplinary procedure, shall be punished with a fine, or with imprisonment of up to three months.

(2) The punishment from item 1 shall apply also to a party which gives a false statement when presenting evidence by interrogation of the parties in a process or administrative procedure, and the decision made in this procedure is based on this statement.

(3) If the false statement from item 1 is given in a criminal proceeding, the offender shall be punished with imprisonment of three months to five years.

(4) If because of the crime from item 3, especially serious consequences were caused for the accused, the offender shall be punished with imprisonment of one to ten years.

(5) If the offender calls off his false statement of own volition, before a decision that has come into effect is passed, he may be acquitted from punishment.

### **Preventing the collection of evidence**

#### **Article 368**

(1) A person who with the intention of preventing or hindering the collection of evidence, hides, destroys, damages or makes useless, partially or completely, another's document or object that is serves as evidence, shall be punished with a fine, or with imprisonment of up to one year.

(2) The punishment from item 1 shall apply also to a person who, with the same intention, removes, destroys, damages, shifts or moves a boundary, land-measurement or other sign, regarding ownership, or some other right based on real estate or the rights for the use of water, or to a person who with the same intention falsely sets up such a sign.

### **Illegal influence on witnesses**

**Article 368-a**

One who will influence on some person to appear or not to appear as a witness in a procedure in front of a court or in administrative procedure or is called as a witness to give or not to give statement i certain sense, using threat on the life or the body or on the property in greater scope, offering bribe, disruption or in any other way, shall be sentenced with imprisonment of one to three years.

(2) The sentence stipulated in paragraph 1 shall be also imposed to one that, for revenge for the statement given by the person called as a witness, will revoke some right, mistreat or cause physical injury to the person called as a witness or a person close to him/her.

(3) If especially severe consequences occurred on the defendant in criminal procedure or the witness or a person close to him/her suffered severe physical injury, shall be sentenced with imprisonment of one to ten years.

**Violation of the confidentiality of the procedure****Article 369**

A person who without authorization discloses what he found out during a court procedure, or in an administrative, petty offense or disciplinary procedure, when this has been declared a secret by law or by decision of the court or the authority that carries out the disciplinary procedure, shall be punished with a fine, or with imprisonment of up to one year.

**Rebellion by arrested people****Article 370**

(1) A person who organizes a rebellion of arrested people, in an institution where he finds himself based on a lawful decision for arrest, with the intention to free themselves by force, or together to attack the official persons in this institution, or by force or with serious threat to use force, to coerce them to do or not to do something that is contrary to their duty, shall be punished with imprisonment of six months to three years.

(2) A participant in the rebellion from item 1 shall be punished with imprisonment of three months to one year.

(3) The perpetrator of the crime from items 1 and 2, who uses force, shall be punished with imprisonment of six months to five years.

(4) The perpetrator of the crime from items 1 and 2, who gives up the rebellion of his own volition before force or a serious threat is applied, shall be acquitted from punishment.

**Escape of an arrested person****Article 371**

A person who escapes from an institution in which he is deprived of freedom by a lawful decision, by using force or a serious threat to directly attack upon the life or body of another, shall be punished with imprisonment of three months to five years.

**Enabling the escape of an arrested person****Article 372**

(1) A person who by force, serious threat, defraud or in some other way enables the escape of a person who is deprived of freedom by a lawful decision, shall be punished with imprisonment of three months to five years.

(2) If the crime from item 1 is committed in a group, or with the use of firearms or some other dangerous utensil, the offender shall be punished with imprisonment of one to ten years.

**Illegal freeing of an arrested person****Article 373**

An official person who, in contrary to the law, frees a person deprived of freedom that was entrusted to him for guarding, or helps him escape, shall be punished with imprisonment of three months to five years.

**Unlawful usurpation of objects during search or in a procedure for execution****Article 374**

An official person who, during the search of a home, premises or persons, or in a procedure of execution, unlawfully takes away another's movable object, with the intention of usurpation, shall be punished with imprisonment of one to ten years.

**Coercion against a judiciary employee****Article 375**

(1) A person who by force or by serious threat, coerces a judge, a jury-judge, a public prosecutor, a public legal officer, or their deputy, to do, not to do, or to endure something, shall be punished with a fine, or with imprisonment of up to three years.

(2) If during performing of the crime, the persons from paragraph 1, or persons close to them, suffered physical injury, the perpetrator shall be sentenced with imprisonment of one to ten years.

(3) The attempt of the crimes stipulated in the paragraph 1, 2 and 3 is punishable.

### **Evading prohibitions from sentences and legal consequences from a sentence**

#### **Article 376**

(1) A person who enables another to perform a certain vocation, professional activity or function, or other matters, even though he knows that this is prohibited to him by a pronounced sentence, or by legal consequences from a sentence, shall be punished with a fine, or with imprisonment of up to one year.

(2) If the crime from item 1 was committed by an official person, he shall be punished with a fine, or with imprisonment of up to three years.

(3) If the crime stipulated in the paragraph (1) is performed by a legal entity, it shall be sentenced with a fine.

### **Failure to execute a court decision**

#### **Article 377**

(1) An official or responsible person, who does not act upon a court decision that has come into effect, with which the decision was given to return a worker to work, shall be punished with a fine, or with imprisonment of up to one year.

(2) An official person, or a responsible person in a legal entity, who refuses to execute a court decision that has come into effect and is executable, which he is obliged to do, shall be punished with a fine, or with imprisonment of up to three years.

(3) Official or responsible person who refuses to execute a decision that has come into effect of the Constitutional Court of the Republic of Macedonia, which he is obliged to execute, shall be sentenced with imprisonment of one to five years.

(4) If the crime from items 1, 2 and 3 of this article caused a more serious violation of the rights of another person or a significant property damage, the perpetrator shall be sentenced with imprisonment of one to ten years.

(5) Official or responsible person or person obligated for that with court decision that will not act upon legally effective court decision issued in procedure for issuing an order for protection of rights, shall be sentenced with imprisonment of one to five years.

(6) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

## **32. CRIMES AGAINST LEGAL TRAFFIC**

### **Falsifying a document**

#### **Article 378**

(1) A person who prepares a false document, or alters a real document with the intention to use such a document as real, or who uses the false or altered document as if it was real, shall be punished with a fine, or with imprisonment of up to three years.

(2) The attempt is punishable.

(3) If the crime from item 1 was committed in regard to a public document, will, bond, check, public or official book, or some other book that must be maintained based on the law, the offender shall be punished with imprisonment of three months to five years.

(4) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Special cases of falsifying documents**

#### **Article 379**

(1) The following shall be considered to have committed an act of falsifying a document, and shall be punished according to article 378:

- 1) a person who without authorization fills in a statement that is of importance for the legal relations onto some paper, form, or some other object, on which another has already placed his signature;
- 2) a person who deceives another about the contents of a document, in order for this person to place his signature on it, thinking that he is signing under some other document or under some other contents;
- 3) a person who issues a document in the name of another, without his authorization, or in the name of a person who does not exist;
- 4) a person who as issuer of a document, adds to his signature that he has some position, title or rank, even though he does not have such a position, title or rank, and which has a significant influence upon the force of evidence of that document; and
- 5) a person who makes the document in such a way as to use, without authorization, a real stamp or sign.

(2) If the crime referred to in this article is committed by a legal entity, it shall be sentenced with a fine.

### **Computer forgery**

#### **Article 379-a**

(1) One that unauthorized will produce, input, change, delete or make useless, with an intention to use them as real, computer data or programs which are determined or suitable to serve as evidence of facts with a value for the legal relations or one that will use such data or programs as real, shall be sentenced with a fine or imprisonment up to three years.

(2) If the crime stipulated in paragraph (1) is performed on computer data or programs that are used in the activities of the state authorities, public institutions, enterprises or other legal entities or individuals that perform activities of public interest or in the legal traffic with foreign countries or if significant damage is caused by their use, the stipulator shall be sentenced with imprisonment of one to five years.

(3) One that unauthorized produces, purchases, sells, holds or makes available to other special devices, means, computer programs or computer data intended for or suitable for performing the crimes stipulated in paragraph 1, shall be sentenced with a fine or imprisonment up to three years.

(4) The attempt of the crimes stipulated in the paragraphs 1 and 3 is punishable.

(5) The special devices, means, computer programs or data for performing of the crime shall be confiscated.

### **Use of a document with false contents**

#### **Article 380**

(1) A person who uses as proof in the legal traffic a document, book or paper, for which he knows that it is false, shall be punished with a fine, or with imprisonment of up to three years.

(2) If the crime stipulated in this article is performed by a legal entity, it shall be sentenced with a fine.

### **Issuing and use of a false doctor's or veterinary certificate**

#### **Article 381**

(1) A doctor or veterinarian, who issues a false doctor's or veterinary certificate, shall be punished with a fine, or with imprisonment of up to three years.

(2) The punishment from item 1 shall apply also to a person who uses a false doctor's or veterinary certificate as if it was real.

### **Shysterism**

#### **Article 381-a**

One that, without registered activity, gives professional and legal assistance to citizens and legal entities for compensation, but is not a lawyer, shall be sentenced with a fine or imprisonment up to one year.

## **33. CRIMES AGAINST THE PUBLIC ORDER**

### **Preventing an official person in performing an official act**

#### **Article 382**

(1) A person who by force or by serious threat to directly attack the life or body, prevents an official person in performing his official act or forces him to perform the official act, shall be punished with a fine, or with imprisonment of up to three years.

(2) If when the crime from item 1 was committed, the offender offended or mistreated the official person, or caused him body injuries, or threatened him with the use of a weapon, he shall be punished with imprisonment of three months to three years.

(3) A person who commits the crime from items 1 and 2 against an official person or a person who assists in performing work on public security or on the protection of the constitutional system of the Republic of Macedonia, in regard to preventing or discovering a crime, catching of a perpetrator of a crime, maintaining the public order and peace, or guarding a person deprived of freedom, shall be punished with imprisonment of three months to five years.

(4) The attempt of a crime from items 1 and 2 is punishable.

(5) If the perpetrator of a crime from items 1, 2 and 3 was provoked by unlawful or rude conduct by the official person or the person that assisted, he may be acquitted from punishment.

### **Attack upon an official person, when performing security activities**

#### **Article 383**



(1) A person who attacks or seriously threatens to attack an official person or a person that assists him in the performing of activities of public safety or protection of the constitutional system of the Republic of Macedonia, in regard to preventing or discovering a crime, catching a perpetrator of a crime, maintaining the public peace and order, or guarding a person that was deprived of freedom, shall be punished with a fine, or with imprisonment of up to three years.

(2) If when the crime from item 1 was committed, the offender by using a weapon or some other dangerous utensil, mistreats or insults the official person or the person who assists, or inflicts body injury, he shall be punished with imprisonment of three months to five years.

(3) If when the crime from item 1 was committed, the official person or the person who assists him sustained a serious body injury, the offender shall be punished with imprisonment of one to ten years.

(4) If the offender of the crime from items 1 and 2 was provoked by the unlawful or rude conduct of the official person or the person that assists, he may be acquitted from punishment.

### **Participation in a crowd, which prevents an official person to perform an official act**

#### **Article 384**

(1) A person who participates in a crowd which with joint action prevents or attempts to prevent an official person in performing an official act, or in the same way coerces him to perform an official act, shall be punished with imprisonment of three months to three years.

(2) The leader of the crowd shall be punished with imprisonment of one to five years.

### **Participation in a crowd which commits a crime**

#### **Article 385**

(1) A person who participates in a crowd, which with joint action performs acts of violence against people, or damages or destroys property to a larger extent, shall be punished with a fine, or with imprisonment of up to three years.

(2) If during the action of the crowd, some person was killed or sustained serious body injury, or a damage to a large extent was caused, the participant in the crowd, for the participation itself, shall be punished with imprisonment of three months to five years.

(3) The leader of the crowd shall be punished with imprisonment of one to ten years.

### **Act of violence**

#### **Article 386**

(1) A person who mistreats, roughly insults, endangers the safety or performs rough violence upon another, and with this causes a feeling of insecurity, threat or fear among the public, shall be punished with imprisonment of three months to three years.

(2) If the crime was committed in a group of two or more persons, or the violence was committed upon several citizens, or the offender injured bodily another, he shall be punished with imprisonment of six months to five years.

### **Organizing resistance**

#### **Article 387**

(1) A person who organizes others to resistance or to disobedience towards lawful decisions or measures by a state authority, shall be punished with a fine, or with imprisonment of up to three years.

(2) If because of the crime from item 1, the implementation of a lawful decision or measure from the state organ failed or was rendered significantly more difficult, or he committed the crime as leader of a group, the offender shall be punished with imprisonment of one to five years.

### **Unlawful change of the territorial partition of the Republic of Macedonia**

#### **Article 388**

A person who by use of force or serious threat to use force, or in some other unlawful manner, changes the territorial partition of the Republic of Macedonia that was determined by law, shall be punished with imprisonment of one to five years.

### **Taking down or damaging an official stamp or sign**

#### **Article 389**

(1) A person who takes down or damages an official stamp or sign which was placed by an official person for the security of the object or premises, or a person who without taking down or damaging the stamp or sign enters such premises or opens the secured object, shall be punished with a fine, or with imprisonment of up to three years.

(2) The attempt is punishable.

**Taking away or destroying an official stamp or paper****Article 390**

(1) A person who illegally takes away, hides, destroys, damages or in some other way makes unusable an official stamp, book or paper, or document, that belongs to a state authority or to some other legal entity that performs public authorizations, or which is located with them, shall be punished with a fine, or with imprisonment of up to three years.

(2) The attempt is punishable.

**False presentation****Article 391**

(1) A person who, with the intention for himself or for another, to acquire gain or to cause damage to another, presents himself as an official or military person, or who carries the signs of an official or military person without authorization, shall be punished with a fine, or with imprisonment of up to one year.

(2) The punishment from item 1 shall apply also to a person who commits an act for which only a specific official or military person is authorized to do.

**Autocracy****Article 392**

(1) A person who autocratically procures some right of his own, or a right that he considers belongs to him, shall be punished with a fine, or with imprisonment of up to six months.

(2) A person who autocratically procures some right of his own, or a right which he considers belongs to him, by using force or a serious threat to attack the life and body, shall be punished with a fine, or with imprisonment of six months to three years.

(3) The punishment from item 2 shall apply to a person who commits the crime from items 1 and 2 for another.

(4) Prosecution for the crime from item 1 is undertaken upon private suit, and for items 2 and 3 upon proposal.

**Conspiracy to commit a crime****Article 393**

A person who conspires with another to commit a crime, for which a punishment of imprisonment of three years or more may be pronounced, shall be punished with a fine, or with imprisonment of up to one year.

(2) The sentence stipulated in paragraph 1 shall be also imposed to one that will agree to a crime for which imprisonment of four years or more severe sentence is provided.

**Terrorist organization****Article 394-a**

(1) Any person who organizes a group, gang or other criminal enterprise to commit the criminal offences of murder, corporal injuries, abduction, destruction of public facilities, transport systems, infrastructure facilities, information systems and other facilities of general use, hijacking of airplanes or other means of public transport, production, possession or trade in nuclear weapons, biological, chemical weapons and other types of weapons and hazardous materials, dispersal of hazardous radioactive, poisonous and other dangerous substances or arson or causing explosions, destruction of plants and facilities for supply of water, energy and other fundamental natural resources, with an intention to endanger the lives and bodies of the citizens and create a feeling of insecurity and fear, shall be sentenced to imprisonment of at least eight years.

(2) The member of the group, gang or other criminal enterprise, as well as the person, who assists in any possible manner, shall be sentenced to imprisonment of four, up to ten years.

(3) The sentence as referred to in paragraph (2), shall be also imposed to any person who publicly calls for, instigates or supports the establishment of a terrorist organization.

(4) The perpetrator of the crime as referred to in paragraph (1), who, by discovering the organization, or in any other manner prevents the execution of the planned crimes, shall be sentenced to imprisonment of 3 months, up to 3 years, or he or she may be acquitted.

(5) The perpetrator of the crime as referred to in paragraph (2), who discovers the organization before committing one of the crimes referred to in paragraph (1) as its member or for its benefit, shall be acquitted.

(6) Any real estate used, and the items and objects intended for preparation of the crimes referred to in paragraphs (1), (2) and (3) shall be seized.

**Terrorism**

**Article 394-b**

(1) Any person who commits one or more crimes of murder, corporal injuries, abduction, destruction of public facilities, transportation systems, infrastructure facilities, computer systems and other facilities of general use, hijacking of airplanes or other means of public transportation, production, possession, transportation, trade, procurement or use of nuclear weapons, biological, chemical weapons and other types of weapons and hazardous materials, as well as research in the direction of development of biological and chemical weapons, release of dangerous radioactive, poisonous and other dangerous substances or causing fire or an explosion, destruction of facilities for water supply, energy supply or other basic natural sources, with the intention to endanger human life and body and to create feeling of insecurity or fear among citizens, shall be sentenced to imprisonment of at least ten years or life imprisonment.

(2) Any person who seriously threatens to commit the crime referred to in paragraph (1) of this article directly or indirectly, by using electronic means or other ways, with the intention to endanger human life and body and to create feeling of insecurity or fear among citizens, shall be sentenced to imprisonment of at least eight years.

(3) Any person who publicly calls for, by spreading a message or making it publicly available in any other manner, with an intention to instigate some of the activities referred to in paragraph (1) of this article, when the appeal itself creates a danger of committing such a crime, shall be sentenced to imprisonment of four to ten years.

(4) The sentence referred to in paragraph (1) of this article shall be also applied for a person who forces someone to perform the crime specified in paragraph (1) of this article by force or serious threat upon the person's life and body or upon the life and body of the person's closely related people.

(5) The sentence referred to in paragraph (2) shall also be imposed to any person who shall agree with another person to commit the crimes referred to in paragraph (1), or shall invite another person to join an enterprise or a group with an intention to commit the crime referred to in paragraph (1).

(6) Any person who organizes manufacture, prepares, produces, sells, buys, transports or holds explosives, firearms or other types of weapons or hazardous substances intended to commit the crime as referred to in paragraph (1), as well as any person who conducts training, or in any other manner prepares another person to commit the crime referred to in paragraph (1), shall be sentenced to imprisonment of at least four years.

(7) A person who performs a grand larceny in order to obtain the necessary objects to commit any of the crimes referred to in paragraph (1) of this article, shall be sentenced to imprisonment of at least four years.

(8) If the crime has been committed by a legal entity, it shall be punished with a monetary fine.

(9) Any real estate used, and the items and objects intended for preparation or committing the crimes shall be seized.

**Financing of terrorism****Article 394-c**

(1) Any person who provides or collects funds in any way, directly or indirectly, unlawfully and consciously, with the intention to use them, or knowingly that they will be used, fully or partially, to commit the criminal offence of hijacking an airplane or a ship (Article 302), endangerment of air traffic security (Article 303), terrorist endangerment of the constitutional order and security (Article 313), terrorist organization (Article 394-a), terrorism (Article 394-b), crimes against humanity (Article 403-a), international terrorism (Article 419), taking hostages (Article 421) and other crimes of murder or serious bodily injuries, committed with an intention to create a feeling of insecurity and fear amongst the citizens, shall be sentenced to imprisonment of at least four years.

(2) A person who publicly calls for, by disseminating, or making available to the public in any other manner, a message that instigates the perpetration of some of the actions referred to in paragraph (1) of this article, and when the call itself creates a danger for realization of such action, shall be sentenced to imprisonment of four to ten years.

(3) The sentence referred to in paragraph (2) shall also be imposed to any person who shall agree with another person to commit the crimes referred to in paragraph (1), or shall invite another person to join an enterprise or a group with an intention to commit the crime referred to in paragraph (1).

(4) Any person who organizes a group or a gang, in order to commit the crime as referred to in paragraph (1), shall be sentenced to imprisonment of at least eight years.

(5) The members of the group or the gang shall be sentenced to imprisonment of at least five years.

(6) The members of the group or the gang who discover the group i.e. the gang before committing some crime as its member or for its benefit, shall be acquitted.

(7) An official person, responsible person in a bank or other financial institution, or person performing activities of public interest, who according to the law is authorized to undertake measures and activities for prevention of terrorism financing, and consciously fails to undertake the measures determined by law and thus enables the crime referred to in paragraph (1) of this article to be committed, shall be sentenced to imprisonment of at least four years.

(8) The sentence referred to in paragraph (7) of this article shall be imposed to an official person who illegally discloses to a client or other person data that refer to the procedure for investigation of suspicious transactions or application of other measures and activities for terrorism financing.

(9) If the crime defined in paragraphs (7) and (8) of this article has been committed out of negligence, the perpetrator shall be sentenced with a fine or imprisonment of up to three years.

10) If the crime referred to in this article has been committed by a legal entity, it shall be punished with a monetary fine.

(11) All means intended for the preparation, financing and committing the crimes as referred to in paragraphs (1), (2), (3) and (4) shall be seized.

### **Dissemination of racist and xenophobic material through computer systems**

#### **Article 394-d**

(1) Any person who, through a computer system, is distributing racist and xenophobic written material, image or other representation of an idea or theory that advocates, promotes or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, color, national or ethnic origin, as well as religious belief, shall be sentenced to imprisonment of one to five years.

(2) The sentence referred to in paragraph (1) of this article shall be also imposed upon any person who commits the crime through other means of public information.

(3) Any person who commits the crime referred to in paragraphs (1) and (2) of this article by abusing the official position or authority, or if such a crime has resulted in disturbances and violence against other people or in property damage of large proportions, shall be sentenced to imprisonment of one to ten years.

### **Manufacture and acquisition of weapons and means intended for committing a crime**

#### **Article 395**

(1) Any person who manufactures, procures, hides or enables someone else to acquire weapons, ammunition, explosives, bursting materials or means that are necessary for their production, toxins and other instruments that the person knew are intended to be used for a crime to be committed, shall be sentenced to imprisonment of one to five years.

(2) If the crime referred to in paragraph (1) of this article is committed with the use of firearms, weapon whose use is prohibited, or explosives or other materials of a larger quantity, the perpetrator shall be sentenced to imprisonment of three to eight years.

(3) A person who makes or gives to another a false key or some other means for breaking in, even though he knows that it is intended for committing a crime, shall be punished with imprisonment of three months to three years.

(4) If the crime referred to in this article has been committed by a legal entity, it shall be punished with a monetary fine.

(5) The objects from stipulated in paragraphs 1 through 3 and the means for their manufacture, transfer and distribution shall be confiscated.

### **Unlawful keeping weapons or explosive materials**

#### **Article 396**

(1) A person who without authorization manufactures, sells, procures or does an exchange with firearms, ammunition or explosive materials, or a person who without authorization keeps firearms, ammunition or explosive materials, which are forbidden for the citizens, shall be punished with imprisonment of one to ten years.

(2) If the subject of the crime from item 1 is a larger quantity of firearms, ammunition or explosive materials, the offender shall be

punished with imprisonment of three to ten years.

- (3) If the crime referred to in paragraphs (1) and (2) is committed as part of a group, gang or other criminal enterprise, the perpetrator shall be sentenced to imprisonment of at least eight years.
- (4) The objects from items 1 and 2, and the means for their manufacture, transfer and distribution shall be confiscated.

### **Counterfeiting firearms**

#### **Article 396-a**

- (1) Any person who counterfeits markings on firearms by deleting, destroying or changing the markings of a firearm or parts of a firearm, or a person who does not seal and mark firearms, parts, components of firearms and ammunition, shall be sentenced to imprisonment of one, up to ten years.
- (2) If the crime referred to in this article has been committed by a legal entity, it shall be punished with a monetary fine.

### **Abuse of a sign for help and danger**

#### **Article 397**

A person who by abusing a help sign or a danger sign, or with an unfounded calling for help, needlessly causes the going out of the state organs, the fire brigade, or some other competent help services, shall be punished with a fine, or with imprisonment of up to one year.

### **Gambling**

#### **Article 398**

- (1) A person who without authorization organizes gambling or some other game of chance that is prohibited, shall be punished with a fine, or with imprisonment of up to one year.
- (2) The punishment from item 1 shall apply also to a person who, for a reward, makes available premises for gambling or in some other manner, for a reward, enables the gambling or attracts others for gambling.
- (3) A person who during gambling uses false or marked playing cards or some other defraud, while no other more serious crime is involved, shall be punished with imprisonment of one to five years, and with a fine.
- (4) The objects from the gambling, as well as the money of the offender present at the gambling, shall be confiscated.

### **Hindering a religious ceremony**

#### **Article 399**

A person who unlawfully hinders the performance of a religious ceremony shall be punished with a fine, or with imprisonment of up to one year.

### **Desecration of a grave**

#### **Article 400**

- (1) A person who without authorization digs out, destroys or damages a grave or some other place where the deceased are buried, or roughly harms them, shall be punished with a fine, or with imprisonment of up to one year.
- (2) A person, who by the actions from item 1 desecrates two or more graves, shall be punished with a fine, or with imprisonment of up to three years.

### **Desecration of a deceased**

#### **Article 401**

A person who unlawfully hides, carries away, damages, destroys or in some other way desecrates the remains of the deceased, shall be punished with a fine, or with imprisonment of up to one year.

### **Illegal crossing of the state border**

#### **Article 402**

- (1) A person who without the prescribed permission crosses or tries to cross the border of the Republic of Macedonia, armed or with the use of violence, shall be punished with a fine, or with imprisonment of up to one year.
- (2) A person dealing in illegal transfer of other persons across the border of the Republic of Macedonia, shall be punished with

imprisonment of six months to five years.

(3) One who organizes a group, gang or other association with intention to perform the crimes stipulated in the paragraphs 1 and 2, shall be sentenced with imprisonment of one to five years.

## **34. CRIMES AGAINST HUMANITY AND INTERNATIONAL LAW**

### **Genocide**

#### **Article 403**

A person who with the intention of complete or partial destruction of some national, ethnic, racial or religious group, orders the murder or infliction of serious body injuries, or serious harm to the physical or mental health of members of a group, or forced resettlement of population, or to place the group under such living conditions as to bring about the complete or partial extermination of the group, or to apply measures that prevent birth among the members of the group, or to perform forced moving of the children to some other group, or a person who with the same intention, commits some of the above mentioned crimes, shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **Crime against humanity**

#### **Article 403-a**

On who, with an intention for systematic destruction of civil population, order committing murders, severe body injuries, physical extermination, slavery, deportation or forced displacement of the population, imprisonment or other type of depriving of freedom against the international law, torture, rape, sexual exploitation or slavery, forced prostitution, forced pregnancy, forced sterilization or any other type of severe sexual violence, exile based on political, racial, national, ethnic, cultural, religious or gender basis, forced taking away and disappearing of persons, discrimination and separation based on racial, national, ethnic, political, cultural or other basis and other non-humane acts with deliberate causing physical or psychical suffer, or one that will commit some of the stipulated crimes with the same intention, shall be sentenced with imprisonment of at least ten years or life sentence.

### **War crimes against the civil population**

#### **Article 404**

(1) A person who, by violating the rules of international law, during a war, armed conflict or occupation, orders an attack upon civil population, a settlement, certain civil persons or persons incapacitated for combat, which had as consequence death, serious body injury or serious disturbance to the health of the people; an attack without choosing the target, which strikes the civil population; to commit against the civil population murder, torture, inhuman acts, biological, medical or other scientific experiments, taking tissue or organs for the purpose of transplantation, inflicting grave suffering or injury to the body integrity or the health; resettlement and moving or forced denationalization or transfer to some other religion; coercion to prostitution or rape, sexual slavery or causing forced pregnancy, forced sterilization or other type sexual violence, the implementation of measures of fear and terror, taking hostages, collective punishment, illegal taking to concentration camps and other illegal arrests, depriving of the right to a proper and unbiased trial or implementation of sentence or execution without prior verdict issued by a legally based court in a procedure that provides the generally accepted court guarantees; coercion for service in the armed forces of the enemy or in its intelligence service or administration, enrolment and recruitment of minors under 15 years of age in the armed forces and their use through active participation in military activities; utilization of the presence of civilians or other protected persons as life shield in certain places or areas where the armed forces are acting coercion to forced labor, starving of the population, hindering of the approach to the humanitarian aid confiscation of property, pilfering of property of the population, illegal and self-willed destruction or usurpation of a larger extent of properties which is not justified by the military needs, taking an unlawful and excessive contribution and requisition, decreasing the value of the domestic currency or unlawful issue of money; or the person who commits some of the above mentioned crimes - shall be punished with imprisonment of at least ten years, or with life imprisonment.

(2) The punishment from item 1 shall apply to a person who by violating the rules of international law, during a war, an armed conflict or an occupation orders: an attack on cultural good which is under reinforced protection or other structures with special protection upon facilities specially protected by international law, buildings, means of transportation, material and medical units that use well known marks determined by the international law or personnel, installations, material, units or vehicles included in providing humanitarian aid or peace keeping missions and upon facilities and plants with a dangerous power, such as dams, embankments and nuclear power plants; without a choice of the targets to strike: hospitals and places where the sick wounded and other are gathering, civil constructions, which are under special protection by international law, prohibited places or demilitarized zones cities, villages, settlements or buildings that are not defended and are not military targets; long lasting and extensive destruction of the natural environment that could be damaging to the health or the survival of the population; or of cultural good that is under reinforced protection or its vicinity to be used as a support of a military action, destruction or possession of greater scope of cultural good, protected by the international law, stealing or vandal attacks on cultural goods protected by the international law the person who commits some of the above mentioned crimes.

(3) A person who, by violating the rules of international law, as an occupator, during a war, an armed conflict or an occupation, orders or executes a resettlement or deportation of the whole or of parts of the civil population to the occupied territory.

### **War crime against wounded and ill**

#### **Article 405**

A person who, by violating the rules of international law, during a war or an armed conflict, and against wounded, ill, castaways or

medical personnel, orders the committing of murders, torture, inhuman actions, biological, medical or other scientific experiments, taking of tissue or organs for transplantation, or inflicting grave suffering or injury to the body integrity or health, or illegal and self-willed destruction or usurpation of a large extent of materials, means for medical transport and stores from medical or religious institutions, or from units, which is not justified by the military needs, or the person who commits any of the above mentioned crimes, shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **War crimes against prisoners of war**

#### **Article 406**

A person who by violating the rules of international law, and against prisoners of war, orders the committing of murders, torture, inhuman behavior, biological, medical or other scientific experiments, taking of tissues or organs for transplantation, inflicting grave suffering or injury to the body integrity or to health, forcing to serve in the armed forces of the enemy, or depriving of the right to a proper and unbiased trial or to implement sentence or execution without prior verdict of a legally based court and procedure which provides the generally accepted court guarantees or illegally to be deported, displaced or held in custody or the person who commits any of the above mentioned crimes, shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **Use of unallowed combat means**

#### **Article 407**

(1) A person who during a war or an armed conflict orders the use poisons or poisonous weapons, poisonous gases, gasses for suffocation or other type of gases or similar liquids, material or devices, personal mines, bullets that are easily spread in the human body, as well as bullets with hard capsule that does not cover the whole bullet or is bored, weapons, projectiles, material or other way of war that according to their nature cause unnecessary injuries or suffer or which have characteristics that are against the international war law, do not make difference between military and civil targets etc. of combat means or a manner of combat which are prohibited by the rules of international law, or uses them himself, shall be punished with imprisonment of at least one year.

(2) The punishment from item 1 shall apply also to a person who by violating international law during a war or an armed conflict, orders that in the war there should be no surviving members of the enemy, or that the combat against the enemy should be on those principles.

(3) If because of the crime from item 1 many people died, the offender shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **Approving or justifying of a genocide, crimes against humanity or military crimes**

#### **Article 407-a**

(1) One that will publicly negate, roughly minimize, approve and justify the crimes stipulated in the articles 403 through 407, through an information system, shall be sentenced with imprisonment of one to five years.

(2) If the negation, minimizing, approval or the justification is performed with intention to pour hate, discrimination or violence against a person or group of persons due to their national, ethnic or racial origin or religion, the perpetrator, shall be sentenced with imprisonment of at least four years.

### **Misuse of chemical or biological weapons**

#### **Article 407-b**

(1) One that will produce or improve, purchase, house, sell or buy, or mediate in buying or selling, owns, transfers or transports chemical or biological weapons or any type of war device forbidden by the rules of the international right, shall be sentenced with imprisonment of three months to three years.

(2) One who, during a war or armed conflict, will order use of chemical or biological weapons or any type of war device or will fight in a manner that is forbidden by the rules of the international law, shall be sentenced with imprisonment of at least one year.

(3) If as a result of the crime stipulated in paragraphs 1 and 2, death of larger number of people occurs, the perpetrator shall be sentenced with imprisonment of at least five years or life sentence.

(4) The objects of the paragraphs 1 and 2 and the means for their production shall be confiscated.

### **Unlawful killing and wounding of an enemy**

#### **Article 409**

(1) A person who by violating the rules of international law during a war or an armed conflict, kills or wounds an enemy who has laid down his weapons, or who unconditionally surrendered, or remained without defense means, shall be punished with imprisonment of at least one year.

(2) If the murder from item 1 was committed in a cruel or subversive manner, out of self-interest or with other low motives, or if several persons are killed, the offender shall be punished with imprisonment of at least ten years, or with life imprisonment.

### **Unlawful confiscation of objects from killed and wounded on the battleground**

**Article 410**

(1) A person who orders the unlawful taking away of objects from the killed or wounded on the battleground, or the person who commits such a taking away, shall be punished with imprisonment of one to five years.

(2) If the crime from item 1 was committed in a cruel way, the offender shall be punished with imprisonment of one to ten years.

**Violation of a parliamentarian****Article 411**

A person who by violating the rules of international law during a war or an armed conflict insults, mistreats or holds a parliamentarian or his escort, or who hinders their return, or in some other way violates their inviolability, shall be punished with imprisonment of six months to five years.

**Cruel behavior with wounded, ill or with prisoners of war****Article 412**

A person who by violating the rules of international law behaves cruelly with the wounded, the ill or with the prisoners of war, or who makes it impossible or who prevents them from using the rights which belong to them according to those rules, shall be punished with imprisonment of six months to five years.

**Unjustified delay in repatriation of prisoners of war****Article 413**

A person who by violating the rules of international law, after the termination of the war or the armed conflict, orders or executes an unjustified delay in the repatriation of the prisoners of war or of civilians, shall be punished with imprisonment of six months to five years.

**Destruction of goods under temporary protection or cultural heritage****Article 414**

(1) A person who by violating the rules of international law during a war or an armed conflict, destroys goods under temporary protection or cultural heritage and constructions, religious structures or institutions intended for science, art, education or for humanitarian purposes, shall be punished with imprisonment of at least one year.

(2) If with the crime from item 1 a clearly distinctive facility is destroyed, which is under special protection of international law as a cultural and spiritual heritage of the people, the offender shall be punished with imprisonment of at least five years.

**Instigation to aggressive war****Article 415**

A person who calls out or instigates to aggressive war shall be punished with imprisonment of one to ten years.

**Abuse of international signs****Article 416**

(1) A person who abuses or without authorization carries the flag or the sign of the Organization of the United Nations, or the signs or flag of the Red Cross, or signs that correspond to them, international telecommunication signs, signs of cultural heritage or other acknowledged international signs with which certain facilities are marked, shall be punished with imprisonment of three months to three years.

(2) The sentence stipulated in paragraph 1 shall be also imposed to one that misusing truth flag, war signs or uniform of the enemy will cause death or severe body injury to some person.

(3) A person, who commits the crime from item 1 and 2 in a zone of military operations, shall be punished with imprisonment of six months to five years.

**Organizing group and urging for commitment of genocide and war crimes****Article 416-a**

(1) One who will organize a group with an intention to commit crimes stipulated in the articles 403 through 416, shall be sentenced with imprisonment of at least eight years.

(2) One who will become a member of the group stipulated in paragraph 1, shall be sentenced with imprisonment of at least four years.

(3) Member of the group stipulated in the paragraph 2, who will disclose the group before he/she commits crime as its member or in its



behalf, shall be pardoned.

(4) One that calls on or urges for commitment of the crimes stipulated in the articles 403 through 416, shall be sentenced with imprisonment of one to ten years.

### **Accountability of the commandants and other superiors**

#### **Article 416-b**

(1) The military commandant or the person that acts on such position is criminally accountable for all crimes stipulated in the articles 403 through 416-a, committed during war or any type of armed conflict, international or domestic, by members of regular or paramilitary armed formations under his/her direct command and control, if he/she knew or according to all circumstances was obligated and could know that they prepare or commit such crimes, or if he/she failed to take all necessary and reasonable measures to prevent their commitment or if he/she prevented or failed to press criminal charges against the perpetrators of the crimes.

(2) The superior is criminally accountable for all crimes stipulated in articles 403 through 416-a, committed during armed conflict or in peace by his/her inferiors during performing official or other duty or working obligation, if he/she knew or according to all circumstances was obligated and could know that they prepare or commit such crimes, or if he/she failed to take all necessary and reasonable measures to prevent their commitment or if he/she prevented or failed to press criminal charges against the perpetrators of the crimes.

### **Accountability of the inferior for crime committed upon order by the superior**

#### **Article 416-c**

(1) The commitment of the crimes stipulated in the articles 403 through 416-a upon an order by a military commandant or other superior does not release the inferior of criminal accountability.

(2) The inferior who will commit a crime stipulated in the articles 403 through 416-a upon request by the superior or upon lawful decision, if he/she had legal obligation to obey the order or decision, and he/she did not know that it is illegal, and from the circumstances it was not obvious.

### **Racial or other discrimination**

#### **Article 417**

(1) A person who based on the difference in race, color of skin, nationality or ethnic belonging, violates the basic human rights and freedoms, acknowledged by the international community, shall be punished with imprisonment of six months to five years.

(2) The punishment from item 1 shall apply also to a person who persecutes organizations or individuals because of their efforts for equality of the people.

(3) A person who spreads ideas about the superiority of one race above some other, or who advocates racial hate, or instigates to racial discrimination, shall be punished with imprisonment of six months to three years.

### **Founding a slave relationship and transportation of persons in slavery**

#### **Article 418**

(1) A person who by violating the rules of international law places another in slavery or in some similar relationship, or keeps him under such relationship, buys him, sells him, hands him over to another, or mediates in the buying, selling or handing over of such a person, or instigates another to sell his freedom or the freedom of a person he is keeping or caring for, shall be punished with imprisonment of one to ten years.

(2) A person, who transports persons under a slavery or similar relationship from one country to another, shall be punished with imprisonment of six months to five years.

(3) A person, who commits the crime from items 1 and 2 against a juvenile, shall be punished with imprisonment of at least five years.

### **Trafficking in Human Beings**

#### **Article 418-a**

(1) A person who by force, serious threat misleads or uses other forms of coercion, kidnapping, deceit and abuse of his/her own position or a position of pregnancy, weakness, physical or mental incapability of another person, or by giving or receiving money or other benefits in order to obtain agreement of a person that has control over other person or in any other manner, recruits, transports, transfers, buys, sells, harbors or accepts persons because of exploitation through prostitution or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced fertilization, unlawful adoption, or similar relationship or illicit transplantation of human body parts, shall be punished with imprisonment of at least four years".

(2) A person who destroys or takes away an ID, passport or other documents for identification with aim to commit the crimes set out in paragraph 1 of this article shall be punished with at least 4 years of imprisonment.

- (3) A person who uses or enables another person to use sexual services or another type of exploitation from persons for whom he knew or was obliged to know that they were victims of human trafficking shall be punished with imprisonment of 6 months up to 5 years.
- (4) If the crime referred to in paragraphs (1), (2) and (3) of this article is committed by an official person while performing his/her duties, he/she shall be sentenced to imprisonment of at least eight years.
- (5) The consent of the human trafficking victim in relation to the intent for exploitation, as referred to in paragraph (1), shall not bear any importance regarding the existence of the criminal offence as referred to in paragraph (1).
- (6) If the action in this article is committed by a legal entity it shall be fined.
- (7) The real estate, the items and means of transport used for committing the crime shall be confiscated.

### **Smuggling of migrants**

#### **Article 418-b**

- (1) One who, using force or serious threat that will attack the life or body, with kidnapping, fraud, out of greed, with misuse of his/her official position or using of the powerlessness of other illegally transfers migrants through the state border, as well as one that produces, purchases or owns fake passport with such intention, shall be sentenced with imprisonment of at least four years.
- (2) One that engages, transports, transfers, buys, sells, hides or accepts migrants, shall be sentenced with imprisonment of one to five years.
- (3) If during the commitment of the crimes stipulated in the paragraphs 1 and 2 the life or the health of a migrant is endangered, or the migrant is treated especially humiliating or cruelly, or he/she is prevented to use the rights he/she has according to the international law, the stipulator shall be sentenced with imprisonment of at least eight years.
- (4) If the crime stipulated in the paragraphs 1 and 2 is committed with a minor, shall be sentenced with imprisonment of at least eight years.
- (5) If the crime referred to in paragraphs (1), (2), (3) and (4) of this article is committed by an official person while performing his/her duties, he/she shall be sentenced to imprisonment of at least ten years.
- (6) The means and the vehicles used for committing the crime shall be confiscated.

### **Organization of a group and urging for commitment of the crimes human trafficking, trafficking of juveniles and smuggling of migrants**

#### **Article 418-c**

- (1) One who will organize a group, gang or other association with intention to commit crimes stipulated in the articles 418-a, 418-b and 418-d, shall be sentenced with imprisonment of at least eight years.
- (2) One who will become a member of a group, gang or other association stipulated in paragraph 1 or in other way helps the group, gang or association, shall be sentenced with imprisonment of at least one year.
- (3) The member of the group stipulated in the paragraph 1 who will disclose the group before he/she commits a crime as its member or on its behalf, shall be pardoned.
- (4) One that calls, urges or supports commitment of the crimes stipulated in the articles 418-a, 418-b and 418-d shall be sentenced with imprisonment of one to ten years.

### **Trafficking in juveniles**

#### **Article 418-d**

- (1) Any person who recruits, transports, transfers, buys, sells, harbours or accepts a juvenile for the purpose of exploitation by prostitution or other forms of sexual exploitation, pornography, forced labour or servitude, slavery, forced marriage, forced fertilization, illegal adoption or similar relationship, or illegal transplantation of human organs, shall be sentenced to imprisonment of at least eight years.
- (2) Any person who commits the crime as referred to in paragraph (1) by using force, serious threats, delusion, or other form of coercion, abduction, deception, or abuses his or hers position or conditions of pregnancy, disability or physical or mental incapability of another person, or by giving or taking money or other benefits in order to get consent from a person who has control over another person, shall be sentenced to imprisonment of at least ten years.

(3) Any person who uses or enables another person to use sexual services or other type of exploitation of a juvenile person, for whom he or she knew or was obliged to know that the person is a victim of human trafficking, shall be sentenced to imprisonment of at least eight years.

(4) Any person who takes away or destroys a personal identification card, passport or other identification document that belongs to another person, for the purpose of committing the crime as referred to in paragraphs (1) and (2), shall be sentenced to imprisonment of at least four years.

(5) If the crime referred to in paragraphs (1), (2), (3) and (4) of this article is committed by an official person while performing his/her duties, he/she shall be sentenced to imprisonment of at least ten years.

(6) The consent of the juvenile person in relation to the activities as referred to in paragraph (1), shall bear no importance regarding the existence of the criminal offence as referred to in paragraph (1).

(7) If the crime referred to in this article has been committed by a legal entity, it shall be punished with a monetary fine.

(8) Any real estate and the items or transport vehicles used to commit the crime shall be seized.

## **International terrorism**

### **Article 419**

(1) A person who with the intention of harming a foreign state or some international organization, commits a kidnapping of another or some other act of violence, causes an explosion or fire, or with some other generally dangerous act or by generally dangerous means causes a danger to the life of people and to property to a significant value, shall be punished with imprisonment of at least three years.

(2) If because of the crime from item 1, one or more persons died, or a damage was caused of a large extent, the offender shall be punished with imprisonment of at least five years.

(3) If when committing the crimes from item 1, the offender kills another with intent, he shall be punished with imprisonment of at least ten years, or with life imprisonment.

## **Endangering persons under international protection**

### **Article 420**

(1) A person who commits kidnapping or some other act of violence against a person under international legal protection, or who attacks his official premises, private home or transportation means, shall be punished with imprisonment of at least one year.

(2) If because of the crimes from item 1, one or more persons died, the offender shall be punished with imprisonment of at least five years.

(3) If when committing the crime from item 1, the offender kills another with intent, he shall be punished with imprisonment of at least ten years, or with life imprisonment.

(4) A person who endangers the safety of a person from item 1 with a serious threat to attack him, his official premises, private home or transportation means, shall be punished with imprisonment of one to ten years.

## **Taking hostages**

### **Article 421**

(1) A person who commits a kidnapping of another and threatens to kill him, to hurt him or to keep him hostage, with the intention of coercing some state or international organization to do or not to do something, as an explicit or silent condition for freeing the hostage, shall be punished with imprisonment of at least one year.

(2) If because of the crime from item 1, the kidnapped person dies, the offender shall be punished with imprisonment of at least five years.

(3) If during the committing of the crime from item 1 the offender killed the kidnapped person with intent, he shall be punished with imprisonment of at least ten years, or with life imprisonment.

## **Piracy**

### **Article 422**

(1) A member of the crew or a passenger of a ship or an aircraft, who with the intention of acquiring gain for himself or for another, or to cause damage to another, at a place which does not fall under the authority of any state, who commits an act of violence or some other coercion against some other ship or aircraft, or against the persons who find themselves in it, or a plundering of the objects from the ship or the aircraft, shall be punished with imprisonment of at least one year.

(2) If because of the crimes from item 1, one or more persons die, or the destruction of the ship or aircraft was caused, or some other property damage was caused to a large extent, the offender shall be punished with imprisonment of at least five years.

### **35. TRANSITION AND END PROVISIONS**

#### **Instruction for court operation in maintaining penal records**

##### **Article 423**

The Minister of Justice shall issue instructions for the operation of the courts in maintaining penal records within 30 days from the day this Code comes into effect.

Article 423-a

The Court rulebook shall determine the actions of the courts for keeping the criminal records according to the article 106 of the Criminal Code, in 30 days from the day of effectuation of this Law.

#### **Transfer of data from the penal records**

##### **Article 424**

(1) The Ministry of Internal Affairs is bound within one year from the coming into effect of this Law to transfer to the penal records of the competent courts all the data from the penal records maintained by the authorities of that Ministry.

(2) After this period from paragraph 1 expires, the Ministry of Justice shall review the records of the Ministry of Internal Affairs in order to determine whether the data on condemned persons has been removed, and it shall inform about this the Parliament of the Republic of Macedonia.

#### **Termination of criminal-legal provisions**

##### **Article 425**

On the day this Code comes into effect, the criminal-legal provisions of the Criminal Code of the Republic of Macedonia - General and Special Part ("Official Bulletin of SFRY", No. 44/76, 34/84, 74/87, 57/89, 3/90, and 38/90, and "Official Bulletin of the Republic of Macedonia ", No. 25/92 and 32/93), and the Criminal Code of the Republic of Macedonia ("Official Bulletin of SRM" No. 25/77, 23/84, 50/87, 36/89, 7/90, and "Official Bulletin of the Republic of Macedonia " No. 28/91, 24/92, and 49/93), as well as item 1 - Crimes, and articles 278, 279, 280, 281 and 282 of the Law on Customs ("Official Bulletin of the Republic of Macedonia", No. 20/93), and articles 26, 27 and 28 of the Law on the Conditions for Taking, Exchange, Transfer and Transplantation of Parts of the Human Body for Medical Treatment ("Official Bulletin of the Republic of Macedonia ", No. 30/95), cease to be in effect.

#### **Coming into effect of the Code**

##### **Article 426**

This Code comes into effect on the eighth day from the day it is published in the "Official Bulletin of the Republic of Macedonia", and it shall be applied from 1 November 1996.

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