



REPUBLIC OF SERBIA
Ministry of Justice

**LAW ON THE ENFORCEMENT OF THE PRISON
SENTENCE FOR CRIMINAL
OFFENCES OF ORGANISED CRIME**

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*ZAKON O IZVRŠENJU KAZNE ZATVORA ZA KRIVIČNA DELA ORGANIZOVANOG
KRIMINALA*

LAW ON THE ENFORCEMENT OF THE PRISON SENTENCE FOR CRIMINAL OFFENCES OF ORGANISED CRIME

I. BASIC PROVISION

Article 1

This Law governs the procedure of the enforcement of the prison sentence for criminal offences which are considered to be criminal offences of organised crime within the meaning of the Law on Organisation and Competences of State Authorities in the Suppression of Organised Crime, organisation and competence of state authorities in the procedure of the enforcement of a sentence, status of convicted persons and the monitoring of the enforcement of the prison sentence.

Under stipulations set forth in this Law, the provisions hereof shall be also applicable to the enforcement of the prison sentence for:

- 1) the criminal offence of terrorism specified in Article 312 of the Criminal Code and the criminal offence of international terrorism referred to in Article 391 of the Criminal Code;
- 2) criminal offences under Articles 370 through 384 and Articles 385 and 386 of the Criminal Code;
- 3) severe violations of the international humanitarian law committed in the territory of former Yugoslavia as of 1st January 1991 listed in the Statute of the International Criminal Tribunal for Former Yugoslavia;
- 4) the criminal offence of accessory after the fact referred to in Article 333 of the Criminal Code if committed in relation to the criminal offences mentioned in sub-paragraphs 2 and 3 of the present paragraph.

Unless otherwise set forth by the provisions hereof, provisions of the Law on Enforcement of Penal Sanctions shall apply accordingly to the persons serving a prison sentence mentioned in para. 1 and 2 of the present Article.

II. ORGANISATION AND COMPETENCE OF STATE AUTHORITIES IN THE PROCEDURE OF THE ENFORCEMENT OF the SENTENCE for ORGANISED CRIME

1. Special Department for Serving the Prison Sentence for Organised Crime Offences

Article 2

For the enforcement of the prison sentence imposed for the criminal offences mentioned in Article 1, para. 1 and 2 hereof, Special Department for the serving of the prison sentence for organized crime offences shall be established at the high security penal and correctional institution (hereinafter: Special Department).

Separate premises under surveillance shall be provided at the Special Prison Hospital for adults who have been imposed, in addition to the prison sentence for the criminal offences mentioned in Article 1, para. 1 and 2 hereof, the security measures of compulsory psychiatric treatment and confinement in a medical institution, compulsory alcohol addiction treatment

and compulsory drug addiction treatment, including the treatment in the course of serving the prison sentence.

Carrying Out Tasks of Maintaining Order and Security at the Special Department

Article 3

Tasks of maintaining order and security at the Special Department shall be carried out by penal institution staff employed in security services, specifically trained, and assigned to the Special Department.

Carrying Out Other Tasks at the Special Department

Article 4

Tasks relating to healthcare, treatment, training and labour, and general tasks at the Special Department shall be carried out by staff from the seat of the Administration for Enforcement of Penal Sanctions (hereinafter: Administration) and penal institutions, assigned to the Special Department.

Without prejudice to paragraph 1 of the present Article, in the event of a shortage of staff assigned to healthcare at penal institutions, the healthcare tasks may be carried out by healthcare professionals who are not employed in penal institutions for the purposes of providing healthcare to convicts.

Regulations on Organisation and Functioning of the Special Department

Article 5

Regulations on organisation and functioning of the Special Department, special requirements to be met by the staff mentioned in Article 3 of this Law, and the manner of the selection of staff before being assigned to the Special Department shall be passed by the Minister competent for the judiciary.

Assignment to the Special Department

Article 6

The penal institution staff referred to in Article 3 and Article 4 paragraph 1 of this Law, with their consent, or without their consent if required by duty, shall be assigned to the Special Department by the Head of the Administration for the Enforcement of Penal Sanctions (hereinafter: Head of the Administration), at the request of the Governor of the penal institution where the Special Department is located (hereinafter: Governor of the Penal Institution), to terms lasting six months.

Appeals against ruling on assignment to the Special Department may be lodged with the Minister responsible for the judiciary within eight days of receiving the ruling. Appeals do not delay execution of the ruling.

Staff posted to the Special Department is entitled to indemnification of transportation, accommodation and food costs, in accordance with general regulations.

Termination of Tasks of the Person Assigned to the Special Department

Article 7

Upon the reasoned motion of the Governor of the Penal Institution or upon request of the person assigned to the Special Department, tasks at the Special Department may terminate before the expiry of the period of six month following such decision taken by Head of the Administration.

The decision referred to in paragraph 1 of this Article shall be taken by Head of the Administration within three days from the day such motion or request is received.

It is allowed to appeal against the decision taken by Head of the Administration to the Minister competent for the judiciary within three days as of receipt of such decision.

The appeal shall not delay the enforcement of the decision.

Managing the Special Department

Article 8

The Special Department shall be managed by Head of the Special Department who is accountable for his/her own work and the work of the Special Department to the Governor of the Penal Institution.

The Head referred to in paragraph 1 of the present Article shall be designated by Head of the Administration at the reasoned motion of the Governor of the Penal Institution.

A person who has acquired higher education during the second degree studies (graduate academic studies – master, specialised academic studies, specialised professional studies), and/or during the undergraduate studies of four years in duration and minimum five years of experience carrying out the same or similar tasks may be designated Head referred to in paragraph 1 of this Article.

2. Competent Court and Public Prosecutor

Article 9

President of the Higher Court in Belgrade (hereinafter: Court President) shall be competent for the procedure of the enforcement of the prison sentence for the criminal offences referred to in Article 1, para. 1 and 2 hereof.

In the procedure mentioned in paragraph 1 of the present Article, the Court President may authorise a Judge of the Higher Court in Belgrade or a Judge of the Special Department for proceeding in criminal cases of organised crime, and/or a Judge of the War Crimes Chamber, assigned to the Higher Court in Belgrade (hereinafter: Authorised Judge).

When deliberating on the appeal President of the Appellate Court in Belgrade (hereinafter: President of the Appellate Court) shall be competent in the procedure mentioned in paragraph 1 of this Article.

For the deliberation referred to in paragraph 3 of this Article the President of the Appellate Court may authorise a Judge of such court or a Judge of the Special Department for proceeding in criminal cases of organised crime or a Judge of the War Crimes Chamber, assigned to the Appellate Court in Belgrade (hereinafter: Authorised Appellate Judge).

Organised Crime Prosecutor, and/or War Crimes Prosecutor (hereinafter: Public Prosecutor) shall proceed in the procedure referred to in paragraph 1 of this Article.

Salaries and Other Rights under Employment

Article 10

Governor of the Penal Institution, Head of the Special Department and employees assigned to the Special Department shall have salaries which may not exceed a double amount of the salary they would earn in positions they have left for the assignment at the Special Department.

The persons referred to in paragraph 1 of the present Article are not entitled to other contributions added to their salaries, save for the contribution for the time spent in service and contribution for being on-call.

Salaries of the persons referred to in paragraph 1 of this Article shall be regulated by the Government.

The persons referred to in paragraph 1 of this Article are entitled to extension of pension insurance period, such that for every 12 months spent in service at the Special Department 16 months of pension insurance period will be recognised.

The Court President, Authorised Judge, President of the Appellate Court and Authorised Appellate Judge have the rights referred to in para. 1 and 4 of this Article provided they do not receive an increase on the basic salaries for adjudication in organised crime cases, set forth in the Law on Judges, i.e. the right to extension of period of pension insurance, specified under the Law on Organisation and Competence of State Authorities in Suppression of Organised Crime, and/or the Law on Organisation and Competence of State Authorities in the War Crime Proceedings.

Separate Obligations

Article 11

The persons referred to in Article 10, para. 1 and 5 of this Law, and the Public Prosecutor are obliged to observe rules on security and alertness, and to keep any data and information they learn of during the implementation of tasks and assignments set forth by this Law as an official secret.

Data on Property Status and Security Checks

Article 12

Prior to taking up assignment, the persons referred to in Article 10, paragraph 1 hereof are obliged to submit in writing complete and accurate data on their property status and the property status of their spouse, blood relatives in direct line of descent, whereas in cross line of descent to the third degree of consanguinity, and the spouse's kinship to the second degree, in line with the Government's act.

The obligation referred to in paragraph 1 of this Article relates also to the persons referred to in Article 10, paragraph 5 hereof, including the Public Prosecutor.

The records referred to in paragraph 1 of this Article for the persons referred to in Article 10 paragraph 1 of this Law shall be kept by the competent organisational unit at the seat of the Administration.

Data in connection with the financial status of the persons referred to in Article 10 paragraph 1 of this Law, if necessary, at the request of the Administration, shall be audited by the ministry responsible for internal affairs and the ministry responsible for finance.

The persons referred to in Article 10 paragraph 5 of this Law, as well as the public prosecutor, shall deliver the data referred to in paragraph 1 of this Article to the Agency for Fight against Corruption, which conducts their recording and examination, in accordance with a separate law.

The security checks of persons referred to in Article 10 paragraphs 1 and 5 of this Law, as well as of the public prosecutor, are conducted by the ministry responsible for internal affairs and the Security-Information Agency. The security checks and audits of the financial standing of the persons referred to in Article 10 paragraphs 1 and 5 of this Law, as well as of the public prosecutor, may be conducted without the knowledge of those persons before they assume their positions or functions, during their work or the exercise of their official function, and up to one year after the termination of employment or exercise of official function.

The manner of performing security checks, financial standing audits, and the manner of recording the data collected shall be regulated by the Government.

The data referred to in paragraphs 1 and 6 of this Article are deemed official secret.

Tools for Operations

Article 13

The Ministry competent for the judiciary shall provide premises, equipment, weapons and all other technical conditions required for an efficient and safe operation of the Special Department.

Tools for operations of the Special Department shall be provided in the budget of the Republic of Serbia.

III. ENFORCEMENT OF PRISON SENTENCES

Committal to Penal Institution

Article 14

Any male adult whose convicting judgement is final, and who was detained prior to the finality of the judgement, i.e. who was convicted finally *in absentia* for criminal offences mentioned in Article 1, paragraph 1 hereof, shall be committed to serve the prison sentence at the Special Department if it is established that circumstances exist indicating any danger that the convict will:

- 1) continue, through a convict or some other person, to direct criminal activities of an organised criminal group;
- 2) establish, through a convict or some other person, cooperation with some other organised criminal group to continue with criminal activities;
- 3) organise, through a convict or some other person, conflicts with some other organised criminal group;
- 4) endanger, through some other person, the safety of a Judge, Public Prosecutor or another participant in the criminal proceeding that is in force or that is final or some other official who has proceeded in the pre-trial proceeding or in the proceeding for the enforcement of the sentence;
- 5) induce another person to commit criminal offences.

Any male adult whose conviction is final, and who was detained prior to the finality of the judgement, i.e. who was convicted finally *in absentia* for the criminal offences mentioned in Article 1, paragraph 2, sub-paragraph 1 of this Law, for which the circumstances mentioned in paragraph 1, sub-para. 4 and 5 of this Article exist, may be also committed to serve the prison sentence at the Special Department.

Any male adult whose conviction is final, and who was detained prior to the finality of the judgement, i.e. who was convicted finally *in absentia* for the criminal offences mentioned in Article 1, paragraph 2, sub-para. 2 through 4 of this Law, may be also committed to serve the prison sentence at the Special Department, to serve the prison sentence of minimum ten years, for which the circumstances mentioned in paragraph 1, sub-para. 4 and 5 of this Article exist.

Ruling that Refers the Convict to Serve the Prison Sentence at the Special Department

Article 15

The ruling which refers the convict to serve the prison sentence at the Special Department shall be passed by the Court President, and/or Authorised Judge should s/he establish that minimum one of the circumstances mentioned in Article 14 hereof exists.

The existence of the circumstances referred to in Article 14 of this Law shall be established under the facts and evidence collected in the course of the criminal proceeding, from police and security services reports, as well as the Public Prosecutor's opinion.

Police, security services and the Public Prosecutor are obliged to submit, upon request of the court, proper documentation, reports and an opinion based on which it may be established that there are reasons allowing for committal of the convicted person to the Special Department to serve the prison sentence.

The ruling mentioned in paragraph 1 of this Article shall be passed within three days from the day the judgement imposing imprisonment on the convicted person has become enforceable.

The convicted person may appeal against the ruling referred to in paragraph 1 of the present Article within three days from the day of delivery of the ruling.

The appeal shall not delay the enforcement of the ruling.

The appeal shall be filed to the President of the Appellate Court, through the first-instance court.

Proceeding and Decision Taking Upon Appeal

Article 16

The appeal accompanied with the ruling and other case-files shall be transmitted to the President of the Appellate Court within three days from the day of delivery of the appeal.

To take a decision on the appeal the President of the Appellate Court may seek additional clarification from the Court President, Police, security services and the Public Prosecutor.

Deliberating on the appeal the President of the Appellate Court may, by ruling, dismiss the appeal as untimely or inadmissible, reject the appeal as ungrounded or sustain the appeal

and revoke the first-instance ruling. The decision shall be passed within 15 days from the day the appeal is served.

President of the Appellate Court shall, by ruling, sustain the appeal and revoke the decision on committal of the convicted person to the Special Department to serve the prison sentence if s/he establishes that no circumstances mentioned in Article 14 hereof exist.

Delivery of Documentation and Escorting the Convicted Person for Serving the Sentence

Article 17

Upon taking the final decision on committal of the convicted person to serve the prison sentence, the Special Department shall be provided with a warrant for admittance, the enforceable judgment, the final decision and other documents collected during the criminal proceeding and the proceeding in respect of committal for the purposes of serving the sentence.

The warrant for escorting the convicted person for serving the prison sentence at the Special Department shall be transmitted to the penal institution where the convicted person is located.

The Beginning of the Enforcement of the Sentence and the Notifying of the Court

Article 18

The Special Department shall notify the Court President, and/or Authorised Judge, Public Prosecutor and Police on the day and hour when the convicted person started serving the sentence.

The beginning of the serving of the sentence shall be counted from the day the convicted person has started serving the sentence at the Special Department.

IV. EXTENSION AND TERMINATION OF THE SERVING OF THE SENTENCE AT THE SPECIAL DEPARTMENT

Reviewing Reasons for the Serving of the Sentence at the Special Department

Article 19

Court President, i.e. Authorised Judge shall review *ex officio* whether or not the reasons for serving the prison sentence at the Special Department still exist, every two years as of the beginning of the serving of the sentence, i.e. as of the latest ruling by which the term for serving the sentence at the Special Department is extended.

Court President, i.e. Authorised Judge shall pass a ruling that will extend the term for the convicted person to serve the sentence at the Special Department if the former establishes that the circumstances referred to in Article 14 of this Law still exist.

Establishing Reasons for Reviewing the Decision

Article 20

The existence of the circumstances mentioned in Article 14 of this Law is established by the Court President, i.e. Authorised Judge based on facts and evidence from the reports by the Special Department, Police and security services, including the opinion of the Public Prosecutor's.

The report on conduct of the convicted person in the course of serving of the sentence shall be transmitted by the Special Department not later than 30 days before the expiration of the term to which the convicted person is committed to the Special Department, i.e. the end of the term that the serving of the sentence at the Special Department is extended to.

Police, security services and the Public Prosecutor are obliged, at the request of the Court President, and/or Authorised Judge, to deliver appropriate documentation, reports and opinion based on which it is possible to establish the existence of the reasons allowing the extension of the term of imprisonment at the Special Department for the convicted person.

Ruling by which the Serving of the Prison Sentence at the Special Department is Suspended for the Convicted Person

Article 21

If established that the circumstances mentioned in Article 14 hereof do not exist any longer, the Court President, i.e. Authorised Judge shall pass a ruling by which the serving of the sentence at the Special Department is suspended for the convicted person.

The ruling referred to in paragraph 1 of the present Article is final.

Right to Appeal

Article 22

The convicted person may appeal against the ruling passed by the Court President, and/or Authorised Judge that extends the term for which he serves the sentence at the Special Department, within three days from the day the ruling is served.

The appeal shall be filed to the President of the Appellate Court, through the Court President.

The appeal shall not delay the enforcement of the ruling.

Proceeding and Decision taking Upon Appeal

Article 23

It is the duty of the Court President, i.e. Authorised Judge to transmit the appeal accompanied with the ruling and other case-files to the President of the Appellate Court within three days from the day of delivery of the appeal.

President of the Appellate Court, i.e. Authorised Appellate Judge shall take a decision on the appeal lodged.

In the decision taking process upon appeal the President of the Appellate Court, i.e. Authorised Appellate Judge may seek additional information from the Court President, i.e. Authorised Judge, Special Department, Police, security services and the Public Prosecutor.

President of the Appellate Court, i.e. Authorised Appellate Judge may dismiss the appeal as untimely or inadmissible, reject the appeal as ungrounded or sustain the appeal and revoke the ruling.

President of the Appellate Court, i.e. Authorised Appellate Judge shall, sustaining the appeal, revoke the ruling on the extension of the term of the serving of the sentence and suspend the serving of the sentence at the Special Department if s/he establishes that the circumstances mentioned in Article 14 of this Law do not exist any longer.

The decision on the appeal shall be taken by the President of the Appellate Court, i.e. Authorised Appellate Judge within 15 days from the day the appeal is served.

Termination of the Serving of the Sentence at the Special Department and Committal for Further Serving of the Sentence

Article 24

Once the ruling that suspends the serving of the prison sentence at the Special Department is final, the Court President, i.e. Authorised Judge shall deliver the ruling to the convicted person, the court competent for the enforcement of the prison sentence pursuant to the provisions of the Law on Enforcement of Penal Sanctions, and to the penal institution.

Governor of the Penal Institution shall assign the convicted person, for whom the serving of the prison sentence at the Special Department has been suspended, to further serve the sentence at the penal institution in question.

Subsequent Assignment of the Convicted Person to the Special Department

Article 25

The convicted person referred to in Article 24, paragraph 2 of this Law shall be subsequently assigned to the Special Department if it is established that minimum one of the circumstances mentioned in Article 14 hereof has reappeared.

The ruling on the subsequent assignment to the Special Department shall be passed by the Court President, i.e. Authorised Judge, at the motion of the Governor of the Penal Institution.

The person convicted for the criminal offences mentioned in Article 1, para. 1 and 2 hereof, who was not committed to the Special Department to serve the sentence, may be assigned subsequently to the Special Department if it is established that minimum one of the circumstances mentioned in Article 14 of this Law exists.

The ruling on the subsequent assignment of the convicted person under paragraph 3 of the present Article to the Special Department shall be passed by the Court President, i.e. Authorised Judge, at the proposal of the Governor of the Penal Institution where the convict serving the sentence is located. The proposal shall be transmitted to the Court President, i.e. Authorised Judge through Head of the Administration.

Provisions of this Law on committal and extension of the serving of the sentence at the Special Department shall apply accordingly to the subsequent assignment of the convicted person.

V. CLASSIFICATION OF THE CONVICTED PERSON AT THE SPECIAL DEPARTMENT

Classification of the Convicted Person

Article 26

Upon entering the Special Department the convicted person shall be referred to the admittance department. The convicted person may delay at the admittance department for maximum seven days.

Staff at the admittance department gets familiar with the personality of the convicted person from the psychological, criminological and security aspects.

Governor of the Penal Institution makes the treatment programme for the convicted person based on information gathered in the course of his delay at the admittance department and data collected during the criminal proceeding and the proceeding for committal for the serving of the sentence.

Based on the treatment programme the convicted person is placed at certain premises and in groups within the Special Department.

In-House Rules Act of the Special Department

Article 27

The In-House Rules Act of the Special Department shall be passed by the Minister competent for the judiciary.

VI. STATUS OF THE CONVICTED PERSON

Rights of the Convicted Person

Article 28

The convicted person assigned to the Special Department shall exercise the following rights:

- 1) the right to accommodation;
- 2) the right to nourishment;
- 3) the right to clothes, underwear and footwear;
- 4) the right to medical treatment and healthcare;
- 5) the right to work;
- 6) the right to free time;
- 7) the right to information and correspondence;
- 8) the right to exercising religious rights;

- 9) the right to telephone conversation;
- 10) the right to visits by close relatives and other persons;
- 11) the right to receiving parcels and pecuniary deliveries;
- 12) the right to legal aid;
- 13) the right to complaint and appeal, and court protection.

The Right to Accommodation

Article 29

The convicted person is, as a rule, accommodated separately from other convicts.

The convicted person is placed in a room of minimum four square meters size, which is heated, with sufficient natural and artificial light that allows reading and working without any irritation of eyesight.

The room referred to in paragraph 2 of the present Article must have sanitary equipment and other means for safeguarding personal hygiene.

The Right to Medical Treatment and Healthcare

Article 30

The convicted person has the right to healthcare according to the general healthcare regulations and the provisions of this Law.

Specialised medical examination may be conducted by a medical doctor selected by the convicted person, from a list composed by Head of the Administration.

The convicted person who cannot receive proper healthcare at the Special Department shall be referred by the Governor of the Penal Institution, and at the proposal of a medical doctor, to the Special Prison Hospital, with the consent of the Court President, i.e. Authorised Judge.

Governor of the Penal Institution shall, without delay, notify Head of the Administration, and other state authorities where necessary, about the transfer of the convicted person mentioned in paragraph 3 of this Article.

If the convicted person is not able to receive proper healthcare at the Special Prison Hospital either, the former shall be referred to another appropriate medical institution, with the consent of the Court President, i.e. Authorised Judge.

The Right to Work

Article 31

The work of the convicts is on a voluntary basis and it is one of the components of the treatment programme.

The convicted person shall work at the premises of the Special Department, using means and tools which cannot inflict any injury, impair his health or be utilised for his preparing to abscond.

The Right to Free Time

Article 32

The convicted person is guaranteed to spend time in the open air for minimum two hours a day.

Delay of convicts in the open air shall be organised in groups of maximum five convicts.

Physical exercise for convicts shall be organised within appropriate area of the Special Department.

The Right to Information

Article 33

The convicted person has the right to obtain books and newspapers from the penal institution library or at his own expense.

The convicted person may watch television and listen to radio, in the conditions of separate accommodation.

The rights referred to in para. 1 and 2 of the present Article may be limited or denied by the decision of the Governor of the Penal Institution for the reasons of maintaining order, security and safety, prevention of commissions of criminal offences or protection of injured parties.

The convicted person is entitled to appeal against the Governor's decision mentioned in paragraph 3 of this Article to Head of the Administration within three days from the day the decision is delivered. The appeal shall not delay the enforcement of the decision.

The Right to Correspondence

Article 34

The convicted person has the unlimited right to correspondence with his spouse, children, parents, adopted children, adoptive parents, brothers and sisters (hereinafter: close relatives).

The convicted person may correspond also with other persons, with the consent of the Court President, i.e. Authorised Judge.

At the motion of the Governor of the Penal Institution or Head of the Administration, if so dictated by the reasons for maintaining order, security and safety, prevention of commissions of criminal offences or protection of injured parties, the Court President, i.e. Authorised Judge may take a decision to limit or deny the right to correspondence for a certain period of time.

The convicted person is entitled to appeal against the Court President's decision, i.e. Authorised Judge's decision mentioned in paragraph 3 of this Article to the President of the Appellate Court within three days from the day the decision is delivered. The appeal shall not delay the enforcement of the decision.

Limitation of the Right to Correspondence

Article 35

The contents of letters shall be monitored.

Without prejudice to paragraph 1 of this Article, the contents of letters shall not be monitored in cases of correspondence with Defence Counsel, competent Court, the Ministry

competent for the judiciary, international organisations dealing with the protection of human rights, and Ombudsman.

A separate record shall be kept on all sent and received letters.

The Right to Telephone Conversation

Article 36

The convicted person is entitled to telephone conversation with close relatives, maximum twice a month.

By way of exception, Governor of the Penal Institution may, with the consent of the Court President, and/or Authorised Judge, permit telephone conversation also with other persons.

At the motion of the Governor of the Penal Institution or Head of the Administration, if so dictated by the reasons for maintaining order, security and safety, prevention of commissions of criminal offences or protection of injured parties, the Court President, i.e. Authorised Judge may limit or deny the right to telephone conversation for a certain period of time.

The convicted person is entitled to appeal against the decision referred to in paragraph 3 of this Article to the President of the Appellate Court within three days from the day the decision is delivered. The appeal shall not delay the enforcement of the decision.

Telephone conversation, save the conversation with the Defence Counsel, shall be monitored and recorded with a separate record being kept on that.

The Right to Visits by Close Relatives and Other Persons

Article 37

The convicted person is entitled to visits by close relatives once a month.

By way of exception, Governor of the Penal Institution may, with the consent of the Court President, and/or Authorised Judge, permit individual visits by other persons.

Head of the Administration may, with the consent of the Court President, and/or Authorised Judge, permit an individual visit to the diplomatic-consular representative of the country whose national is the convict concerned or to a representative of international organisations dealing with the protection of human rights.

The course of the visit shall be audio-visually monitored and recorded, save in the event of the visit by Defence Counsel, Ombudsman and the representative of international organisations dealing with the protection of human rights, in accordance with the international treaty.

A separate record shall be kept on visits.

The Right to Receiving Parcels and Pecuniary Deliveries

Article 38

The convicted person may receive from his close relatives one parcel a month and a monthly pecuniary delivery amounting to the levels of the preceding month's average earnings in the Republic of Serbia.

The Right to Legal Aid

Article 39

The convicted person has the right to legal aid relating to the serving of the prison sentence.

The Special Department shall advise the convicted person on the manner of exercising the right relating to the serving of the prison sentence, including other forms of legal aid.

The Right to Complaint and Appeal

Article 40

With the view to exercising his rights, the convicted person may, by means of a written submission, address Head of the Special Department or other authorised person assigned to the Special Department.

The person referred to in paragraph 1 of this Article is obliged to reply to the submission of the convicted person, in writing with reasoning, within five days from the day the submission is filed.

The convicted person is entitled to file a complaint to the Governor of the Penal Institution due to any violation of his rights or other irregularities that have, in relation to him, occurred at the Special Department.

Governor of the Penal Institution is obliged to consider the complaint of the convicted person and pass a ruling within 15 days.

The convicted person, who does not receive a response to his complaint or is not satisfied with the ruling passed, has the right to appeal to Head of the Administration within eight days from the day the ruling is received.

Head of the Administration is obliged to decide upon the appeal within 30 days from the day the appeal is delivered.

The Right to Direct Complaint to Head of the Administration

Article 41

If the convicted person finds that his right is infringed by actions of the Governor of the Penal Institution, he may file a complaint to Head of the Administration.

If Head of the Administration or a person authorised by the former establishes that the complaint has not been filed for the reasons mentioned in paragraph 1 of the present Article, s/he will deliver the complaint to the competent authority and notify the convicted person thereabout.

Head of the Administration or a person authorised by the former may also examine admissibility of the complaint by direct inspection of the entire relevant documentation of the penal institution and the Special Department, talking with the Governor of the Penal Institution, Head of the Special Department and staff assigned to the Special Department, talking with the convicted person who has filed the complaint, and other convicts committed to the Special Department to serve their sentences, without staff employed in the Special Department.

If it is established that the complaint is admissible, Head of the Administration shall order that the infringement of the rights of the convicted person cease.

If s/he finds that actions of an employee assigned to the Special Department have led to the infringement of the rights of the convicted person, Head of the Administration shall notify the Governor of the Penal Institution in writing and a person authorised for supervision, whereas if s/he finds that actions of the Governor of the Penal Institution have led to the infringement of the convicted person's rights, Head of the Administration shall notify the person authorised for supervision.

The convicted person is entitled to complain to the person authorised to supervise the functioning of the penal institution, without presence of employees assigned to the Special Department.

The contents of the complaint shall be an official secret.

Special Rights of the Convicted Person's

Article 42

Governor of the Penal Institution, with the consent of the Court President, may approve to the convicted person who has demonstrated an exceptionally good conduct:

- 1) the extended right to the number of telephone conversations mentioned in Article 36, paragraph 1 of this Law;
- 2) the extended right to the number of visits referred to in Article 37, paragraph 1 of this Law;
- 3) receipt of pecuniary deliveries at the amount twice as high as the amount referred to in Article 38 hereof.

Escorting of the Convicted Person

Article 43

The convicted person may be temporarily escorted outside the penal institution where the Special Department is located, only with the consent of the Court President, and/or Authorised Judge.

The Special Department shall notify the Head of the Administration, the police, the Security-Information Agency and the public prosecutor about the escorting of the convicted persons referred to in paragraph 1 of this Article

Transfer of the Convicted Person

Article 44

Head of the Administration may, for reasons of security, transfer the convicted person to the Special Department at another penal institution, with prior consent of the Court President, and/or Authorised Judge.

No appeal shall be filed against the decision taken by Head of the Administration.

VII. MEASURES FOR MAINTAINING ORDER AND SECURITY

1. Coercive Measures

Requirements for the Implementation of Coercive Measures

Article 45

Coercive measures against the convicted person may be enforced only where necessary to prevent:

- 1) escape of the convicted person;
- 2) physical assault, i.e. inflicting of injury on another person;
- 3) self-inflicting of injury or suicide of the convicted person;
- 4) causing substantive material damage;
- 5) active and passive resistance of the convicted person.

Active resistance means any opposition by the convicted person to lawful official measures, actions or directives of a professional person that is expressed by taking shelter or holding on to another person or object, snatching, making it apparent that another person will be assaulted or by undertaking a related action.

Passive resistance means any opposition by the convicted person to lawful official measures, actions and directives of a professional person that is expressed by ignoring orders and directives of the professional person or by assuming a kneeling, sitting, lying or related position.

Types of Coercive Measures

Article 46

Coercive measures include:

- 1) use of physical force;
- 2) tying;
- 3) isolation;
- 4) use of rubber truncheon;
- 5) use of water hoses;
- 6) use of chemical agents;
- 7) use of electromagnetic (electronic) non-lethal weapons;
- 8) use of acoustic-optical non-lethal weapons;
- 9) use of kinetic non-lethal weapons;
- 10) use of firearms.

In implementing coercive measures, the measure to be used is the measure which least endangers the life and impair health of the person against whom it is directed, and which successfully curbs the resistance and is proportionate to the danger that is threatening.

Implementation of Coercive Measures

Article 47

The person against whom a coercive measure will be enforced shall be verbally and clearly warned that such measure will be applied, except in case of concurrent or imminent unlawful attack.

Use of water hoses, chemical agents, electromagnetic (electronic) non-lethal weapons, acoustic and optical non-lethal weapons and kinetic non-lethal weapons may be ordered only by the Governor of the Penal Institution.

The coercive measures referred to in paragraph 2 of this Article may be used only where order and security at the Special Department are severely violated by several convicted persons concurrently and at the same place, as well as under the conditions on which firearms may be resorted to.

Medical Examination and Reporting Upon Use of Coercive Measures

Article 48

Right after the use of a coercive measure, save for the measure of tying, medical examination of the convicted person against whom the measure was used is mandatory, and the person shall be re-examined between the twelfth and the twenty-fourth hour as of the time the measure was used.

A written report by Head of the Special Department as well as reports on medical examinations carried out shall be promptly forwarded to the Governor of the Penal Institution, Court President, and/or Authorised Judge, and Head of the Administration. The report by a medical doctor shall also contain a statement of the person against whom a coercive measure was enforced about how the injuries were caused, including an opinion of the medical doctor about the link between the measure applied and the injuries caused.

2. Special Measures

Conditions for Enforcement of Special Measures and Types of Such Measures

Article 49

Special measures may be exceptionally ordered against the convicted person where there is a danger that he may abscond, act aggressively, hurt himself or violate order and security otherwise, which cannot be eliminated in some other way.

Special measures are as follows:

- 1) seizure and temporary safekeeping of items and objects whose possession is otherwise permitted;
- 2) placement at a particularly secured room without dangerous implements;
- 3) isolation;
- 4) testing for contagious diseases or psychoactive substances.

Enforcement of a special measure shall discontinue without delay if the reasons for its application have ceased to exist.

VIII. COURT PROTECTION

The Right of the Convicted Person to Court Protection

Article 50

The convicted person is entitled to court protection against a decision by Head of the Administration which has decided on the right of the convicted person set forth under this Law, taken upon appeal against the decision by the Governor of the Penal Institution.

The court protection referred to in paragraph 1 of this Article shall be exercised in the administrative dispute.

Lawsuit for Court Protection

Article 51

A lawsuit for court protection shall be filed within three days from the day the decision mentioned in Article 50. paragraph 1 hereof is delivered.

The competent court shall decide on the lawsuit referred to in paragraph 1 of the present Article within 30 days from the day the lawsuit is delivered.

IX. RELEASE OF THE CONVICTED PERSON FROM SERVING THE SENTENCE

Release due to End of Sentence

Article 52

The convicted person shall be released from the Special Department on the day he has completed the serving of the sentence.

If the last serving day is Saturday, Sunday or public holiday, the convicted person shall be released on the preceeding working day.

The Special Department is obliged to notify within 24 hours after the release of the convicted person the Court President, i.e. Authorised Judge and the Police Directorate competent according to the temporary or permanent residence of the convicted person.

If the convict being released is a foreign national, the Special Department is obliged, in addition to the persons and bodies mentioned in paragraph 3 of this Article, to notify also the organisational unit for affairs of foreigners of the Ministry competent for the interior affairs.

Preparation for Release of the Convicted Person and Assistance upon Release

Article 53

Prior to releasing the convicted person from serving the prison sentence the Special Department is obliged to identify a programme of assistance to the convict following the release.

In providing the assistance referred to in paragraph 1 of this Article, the penal institution shall cooperate with the organisational unit of the Administration competent for treatment and alternative sanctions, the guardianship authority competent according to the temporary or permanent residence of the convicted person, the Police and the appropriate organisation or association.

X. SUPERVISION OVER THE SERVING OF THE PRISON SENTENCE

Supervision over Work of the Special Department

Article 54

Functioning of the Special Department shall be supervised by authorised persons from the Administration and the National Assembly Commission, in accordance with the Law on Enforcement of Penal Sanctions, as well as by Ombudsman, in accordance with the Law on Ombudsman.

In addition to the persons and bodies referred to in paragraph 1 of this Article, the Court President, i.e. Authorised Judge shall supervise the serving of the prison sentence at the Special Department.

Court President, and/or Authorised Judge may visit convicted persons at the Special Department, talk with them without presence of staff assigned to the Special Department, and receive complaints from them.

XI. TRANSITIONAL AND FINAL PROVISIONS

Article 55

By-laws set forth under this Law shall be passed within six months from the day this Law enters into force.

Until the In-House Rules Act referred to in Article 27 hereof is passed, the act governing in-house rules at the high security penal and correctional institution shall apply to the serving of the sentence for the criminal offences mentioned in Article 1, para. 1 and 2 hereof, provided it is not contrary to the provisions of this Law.

By-laws applicable to disciplinary offences, measures and the procedure towards convicted persons, measures for maintaining order and security at the penal institutions of the Administration, to arms and equipment of members of the security service at the Administration, shall be aligned with the provisions of this Law no later than six months from the day this Law enters into force.

An act on internal organisation and job classification at the Administration for Enforcement of Penal Sanctions, in the part relating to the internal organisation and job classification of the penal and correctional institution where the Special Department is established, shall be passed within 30 days from the day this Law enters into force.

Article 56

Until initial operations of the Higher Court in Belgrade and the Appellate Court in Belgrade, tasks set forth under this Law shall be carried out by the District Court in Belgrade and the Supreme Court of Serbia, i.e. Presidents of these courts.

Until initial operations of the Prosecutor's Office for Organised Crime, tasks set forth under this Law shall be carried out by the Special Prosecutor for the suppression of organised crime.

Article 57

This Law enters into force on the eighth day from the day it is published in the "Official Gazette of the Republic of Serbia".

**Independent Article of the Law on amendments and supplements to the Law
on the enforcement of the prison sentence for criminal offences of organized
crime**

("Official Gazette of RS" no. 101/2010)

Article 6

This Law enters into force on the eighth day from the day it is published in the "Official Gazette of the Republic of Serbia".