

D E C R E E

ON PROMULGATION OF THE LAW ON ASSUMPTION OF JURISDICTION OF MILITARY COURTS, MILITARY PROSECUTION AND JUDGE ADVOCATE GENERAL

The Law on assumption of jurisdiction of military courts, military prosecution and judge advocate general enacted on 22 December 2004 by the National Assembly of the Republic of Serbia on its Eight session of the Second Regular Sitting in 2004 is hereby promulgated.

PR No. 88

In Belgrade, 24 December 2004

The President of the Republic
Boris Tadic

THE LAW ON ASSUMPTION OF JURISDICTION OF MILITARY COURTS, MILITARY PROSECUTION AND JUDGE ADVOCATE GENERAL

I INTRODUCTORY PROVISIONS

Article 1

This Law shall govern assumption of jurisdiction of military courts, military prosecution and judge advocate general by organs of the Republic of Serbia.

II ASSUMPTION OF JURISDICTION

1 Assumption of jurisdiction of military courts

Article 2

Jurisdiction of military courts with competence on the territory of the Republic of Serbia is assumed by courts of general jurisdiction, in accordance with jurisdiction defined by law governing subject-matter jurisdiction of courts and by this Law.

Venue jurisdiction of courts assuming the jurisdiction of military courts shall be defined by application of relevant legislation.

Article 3

The following courts shall have jurisdiction for first instance adjudication in criminal matters: against the Army of Serbia and Montenegro, criminal

offences of terrorism, sabotage, espionage and disclosing of state secret, if the criminal offences are directed against military facilities and servicemen and if the information relates to defence of the country; conspiracy for hostile activity if such conspiracy is directed at undermining the military and defence capacity, military facilities and servicemen; against official duty if related to duty in the Army of Serbia and Montenegro and the Ministry of Defence; where the subject of the criminal offence are ordnance, weapons, ammunition and explosives used for defence; felonies committed by members of the Army of Serbia and Montenegro while serving in peace keeping forces abroad; criminal offences committed by prisoners of war unless the law defines jurisdiction of another court, and enforcing of prison sentence against servicemen who retain their serviceman status after conviction:

- 1) The District Court in Belgrade, also for the territory of district courts in Valjevo, Zajecar, Negotin, Pozarevac, Smederevo, Uzice and Sabac;
- 2) The District in Novi Sad, also for the territory of district courts in Zrenjanin, Pancevo, Sombor, Sremsak Mitrovica and Subotica;
- 3) The District Court in Nis, also for the territory of district courts in Vranje, Gnjilane, Jagodina, Kosovska Mitrovica, Kragujevac, Krisevac, Kraljevo, Leskovac, Novi Pazar, Pec, Pirot, Prozren, Pristina, Prokuplje and Cacak.

Article 4

Special military departments shall be set up within the District Courts in Belgrade, Novi Sad and Nis.

A Military Department shall be set up within the Supreme Court of Serbia.

2. Assuming of jurisdiction of military prosecution

Article 5

Public prosecutors' offices shall assume the jurisdiction of military prosecution with competence for the territory of the Republic of Serbia, in accordance with subject matter jurisdiction determined by the Law on Public Prosecution and this Act.

District Public Prosecution in Belgrade, Novi Sad and Nis shall proceed before the District Courts in Belgrade, Novi Sad and Nis, in accordance with this Act.

Article 6

Special military departments shall be established within the District public Prosecution in Belgrade, Novi Sad and Nis.

Within the Republic Public Prosecution a military department of the Republic Public Prosecution shall be established.

3. Assuming jurisdiction of Judge Advocate General

Article 7

Jurisdiction of the Judge Advocate General for the territory of the Republic of Serbia shall be assumed by the Republic Attorney General, in accordance with this Act and other regulations.

4. Military detention unit and Military department

Article 8

Military detention units shall be established within the District Prisons in Belgrade and Novi Sad and the prison correctional facility in Nis for enforcement of criminal sanctions for offences that pursuant to this Act are under the purview of the District Courts in Belgrade, Novi Sad and Nis.

The minister of justice shall specify the organisation, operation and treatment of detainees in military detention units, in accordance with the Criminal Procedure Code and the Law on Enforcement of Criminal Sanctions.

Article 9

A military department shall be established within the prison correctional facility in Nis for serving of prison sentences of servicemen retaining their military status after conviction.

The manner of serving of prison sentence in the military department of the prison correctional facility in Nis shall be specified by the minister of justice.

III STATUS ISSUES

Article 10

The Law on Organisation of Courts, the Law on Judges and the Law on Public Prosecution shall apply to persons holding office or engaged in military departments of courts and public prosecutor's offices defined under this Act.

IV TRANSITIONAL AND FINAL PROVISIONS

Article 11

Case files and items of current military courts shall be taken over by courts of general jurisdiction in accordance with the jurisdiction stipulated by the law governing subject-matter jurisdiction of courts and this Act.

Case files and items of current military prosecution shall be taken over by public prosecutor's offices in accordance with subject-matter jurisdiction determined by the Law on Public Prosecution and this Act.

Case files and items of the current Judge Advocate general shall be taken over by the Republic Attorney's Office.

The president of the Supreme Court of Serbia, the Republic Public Prosecutor and the Republic Attorney General shall stipulate by separate act the

manner of taking over of case files and items from military courts, military prosecutor's offices and the Judge Advocate General.

Article 12

Case files and items of the current military facility for enforcement of criminal sanctions and persons deprived of liberty in criminal proceedings not effectively concluded shall be taken over by the District Prison in Belgrade, the District Prison in Novi Sad and the Penal-Correctional facility in Nis, while persons serving sentences in the current military facility for enforcement of criminal sanctions shall be taken over by the Penal-Correctional facility in Nis.

The minister of justice shall specify the manner of taking over case files, items and persons from the current military facility for enforcement of criminal sanctions.

Article 13

This Act shall come into force on 1 January 2005.