

## **Criminal Code of Montenegro**

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### **GENERAL PART**

#### **TITLE ONE**

#### **BASIC PROVISIONS**

##### **Basis and Limits of Criminal Justice Coercion**

###### **Article 1**

Protection of persons and other fundamental social values constitutes the basis and limits for defining criminal offences, prescribing criminal sanctions and for their application, to the extent necessary for the suppression of those offences.

##### **Legality in Defining Criminal Offences and Prescribing Criminal Sanctions**

###### **Article 2**

A penalty or another criminal sanction may only be imposed for an act which constituted a statutory criminal offence before its commission and which was punishable by law.

##### **No Punishment without Guilt**

###### **Article 3**

A punishment or any of the warning measures may be imposed only on a perpetrator who is guilty of having committed a criminal offence.

##### **Criminal Sanctions and Their General Purpose**

###### **Article 4**

(1) Criminal sanctions shall include the following: penalties, warning measures, security measures, and correctional measures.

(2) Criminal sanctions shall be prescribed and imposed for the general purpose of suppressing the acts which violate and threaten the values protected by criminal legislation.

#### **TITLE TWO**

#### **CRIMINAL OFFENCE**

##### *1. General Provisions on Criminal Offences*

##### **Criminal Offence**

###### **Article 5**

A criminal offence shall be an act which is established by law as a criminal offence, which is unlawful, and committed with a guilty mental state.

##### **Manner of Commission of Criminal Offence**

###### **Article 6**

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

(2) A criminal offence was committed by omission when the perpetrator omitted to do what he was obliged to do.

(3) Omission may result in a criminal offence which is not defined by law as omission, provided that the perpetrator satisfied the elements of a criminal offence by omitting to do what he was obliged to do.

### **Time of Commission of Criminal Offence**

#### **Article 7**

(1) A criminal offence is considered to have been committed at a time when the perpetrator acted or should have acted, irrespective of when the consequence of that act arose.

(2) An accomplice is considered to have committed a criminal offence at a time when he acted or should have acted.

### **Place of Commission of Criminal Offence**

#### **Article 8**

(1) A criminal offence shall be considered to have been committed at a place where the perpetrator acted or should have acted or where the consequence of the act arose in whole or in part, and in case of attempts also at a place where the consequence of an attempted act should have or could have arisen, according to his criminal intent.

(2) An accomplice shall be considered to have committed an offence also at a place where he acted in the capacity of an accomplice.

### **Petty Offences**

#### **Article 9**

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### **Legitimate Self-Defence**

#### **Article 10**

(1) An act committed in legitimate self-defence shall not constitute a criminal offence.

(2) Legitimate self-defence is such defence which is absolutely necessary for one to avert a concurrent or imminent unlawful attack upon oneself or another.

(3) Where a perpetrator exceeds the limits of legitimate self-defence, he may receive a lighter punishment, and where the exceedance was due to strong excitement or fear due to an assault, he may also be released from punishment.

### **Extreme Necessity**

#### **Article 11**

(1) An act committed in extreme necessity shall not constitute a criminal offence.

(2) Extreme necessity exists where the act was committed by the perpetrator in order to avert a concurrent or imminent danger which he did not cause from himself or another, which could not have been averted in any other manner, provided that the harm caused thereby does not exceed the harm threatened.

(3) Perpetrators who cause danger through negligence or exceed the limits of extreme necessity may receive a lighter punishment, and where the exceedance happens under particularly mitigating circumstances, they may also be released from punishment.

(4) Where a perpetrator was under an obligation to expose himself to the danger threatened, such an act may not constitute extreme necessity.

### **Force and Threat**

#### **Article 12**

(1) An act which was committed under the influence of absolute force shall not constitute a criminal offence.

(2) Where the offence was committed in order for the perpetrator to avert from himself or another danger created due to force which is not absolute or threat, the perpetrator shall be subject to the provisions of Article 11 of this Code, and the force and threat shall be considered to be danger which he did not cause.

(3) Where the criminal offence is committed under force or threats, where the requirements set out in paragraphs 1 and 2 of this Article are not met, the perpetrator may receive a lighter punishment, and where such an offence was committed under particularly mitigating circumstances, he may also be released from punishment.

(4) In the cases set out in paragraphs 1 and 2 of this Article, where the person who was under force or threat is not considered to be the perpetrator of that criminal offence, the person who applied force or threat shall be considered to be the perpetrator.

### **Culpability**

#### **Article 13**

(1) Perpetrators who are mentally capacitated and who acted with criminal intent, and who were aware or were obliged to be aware or could have been aware that their act is prohibited shall be deemed guilty of a criminal offence.

(2) A perpetrator may be considered guilty of a criminal offence committed through negligence only where so provided by law.

### **Mental Capacity**

#### **Article 14**

(1) A perpetrator shall be considered mentally incapacitated where at the time of commission of a wrongful act defined by law as a criminal offence he was unable to understand the significance of his act or could not control his actions due to a mental illness, temporary mental alienation, arrested mental development or other severe mental alienation (mental incapacity).

(2) A perpetrator whose capacity to understand the effects of his act or to control his actions was significantly reduced due to any of the conditions set out in paragraph 1 of this Article (significantly reduced mental capacity) may receive a lighter sentence.

(3) The culpability of a perpetrator who, by consumption of alcohol, drugs or otherwise, induces such a state of mind which prevents him from understanding the effects of his act or control his actions shall be determined based on the time immediately preceding such a state.

(4) A perpetrator who committed, under the circumstances set out in paragraph 3 of this Article, a criminal offence in the state of significantly reduced mental capacity may not receive a mitigated punishment.

### **Criminal Intent**

#### **Article 15**

A criminal offence shall be considered to have been committed with criminal intent when the perpetrator was aware of his act and desired its commission or when the perpetrator was aware that he could commit the act and decided to commit it.

### **Negligence**

#### **Article 16**

A criminal offence shall be committed through negligence when the perpetrator was aware that his action may result in an offence but recklessly considered that it

would not occur or that he could prevent it, or when he was not aware that he may commit an offence with his act, although given the circumstances under which the offence was committed and his personal capacity, he should have been aware or could have been aware of that possibility.

### **Liability for a Serious Consequence**

#### **Article 17**

Where a criminal offence results in a serious consequence on account of which such offence is punishable under law by a more severe sentence, such a penalty may be imposed where the perpetrator acted with negligence with respect to that consequence, but also if he acted with criminal intent, provided that it thereby does not satisfy elements of another criminal offence.

### **Mistake of Fact**

#### **Article 18**

(1) An act committed under an irreparable mistake of fact shall not constitute a criminal offence.

(2) An irreparable mistake of fact exists where a perpetrator was not obliged to avoid and could not have avoided the mistake with respect to a factual circumstance which constitutes an element of criminal offence or with respect to a factual circumstance which, had it truly existed, would have made the act permitted.

(3) If the perpetrator acted under a mistake of fact due to negligence, the act shall constitute a criminal offence committed through negligence where so provided by law.

### **Mistake of Law**

#### **Article 19**

(1) An act committed under an irreparable mistake of law shall not constitute a criminal offence.

(2) An irreparable mistake of law exists where a perpetrator was not obliged to know and could not have known that the act he committed is prohibited.

(3) Perpetrators who were not aware that the act was prohibited, but were obliged to know or could have known it was prohibited may receive a mitigated punishment.

## ***2. Attempted Criminal Offence and Voluntary Abandonment***

### **Attempt**

#### **Article 20**

(1) Whoever commences the commission of a criminal offence with criminal intent but does not complete it shall be punished for attempted offence punishable under law by a prison sentence of five years or more, whereas other attempted offences shall only be punished where it is explicitly provided for by law that the penalty also applies to an attempt.

(2) The use of a specific tool or of a specific method of commission shall also be deemed to constitute the commencement of the commission of an offence, provided that they are defined by law as elements of the offence.

(3) Perpetrators shall be punished for an attempt by the penalty laid down for the criminal offence, and they may also receive a lighter sentence.

### **Impossible Attempts**

#### **Article 21**

The perpetrator who attempts to commit a criminal offence with an inadequate tool or against an inappropriate object may be released from punishment.

### **Voluntary Abandonment**

#### **Article 22**

(1) Where a perpetrator attempts to commit a criminal offence but voluntarily abandons its commission, he may be released from punishment.

(2) In cases of voluntary abandonment, the perpetrator shall receive a penalty for those acts that constitute another separate criminal offence which is not covered by the criminal offence whose commission the perpetrator abandoned.

### **3. Complicity in a Criminal Offence**

### **Perpetration and Co-perpetration**

#### **Article 23**

(1) A perpetrator of a criminal offence shall be the person taking the act of commission of a criminal offence or the person committing the offence through another person, provided that this other person can not be considered to be the perpetrator.

(2) Where several persons jointly commit the offence by taking the act of commission with criminal intent or through negligence, or where they contribute in a significant way to the commission of the offence by following their prior arrangement with criminal intent, each person shall receive a penalty prescribed for the offence in question.

### **Instigation**

#### **Article 24**

(1) Whoever acts with criminal intent to instigate another person to commit a criminal offence shall receive a penalty as if he had committed the offence himself.

(2) Whoever acts with criminal intent to instigate another person to commit a criminal offence punishable under law by a five year prison sentence or a more severe penalty, where the commission of offence is not even attempted, shall receive the penalty laid down by law for the attempted criminal offence.

### **Aiding**

#### **Article 25**

(1) Whoever acts with criminal intent to aid another in the commission of a criminal offence shall be punished as if he had committed it himself, but may receive a lighter sentence.

(2) The following, in particular, shall be deemed as aiding the commission of a criminal offence: giving counsel or instructions on how to commit the offence, supplying the perpetrator with the means for committing the offence, creating conditions or removing obstacles to the commission of the offence, as well as promising prior to the commission to conceal the offence, the offender, means with which the offence was committed, any traces of the offence, or articles acquired through the criminal offence.

### **Limits of Accomplice Liability and Punishability**

#### **Article 26**

(1) Accomplices shall be held liable within the limits of their criminal intent or negligence, and instigators and aiders shall be held liable within the limits of their criminal intent.

(2) Where an accomplice, instigator or aider voluntarily prevented the commission of a criminal offence, he may be released from punishment.

(3) Personal relations, capacity and circumstances on account of which the law excludes culpability or allows the release from punishment and which serve as ground to qualify an offence as serious or minor, or have an impact on the fixing of sentence, may apply only to the perpetrator, accomplice, instigator or aider in whose case such relations, capacity and circumstances exist.

## **Punishment of Instigators and Aiders for Attempts and Minor Criminal Offences**

### **Article 27**

(1) Where the criminal offence remains in tentative, the instigator and aider shall receive a penalty for an attempt.

(2) Where the perpetrator commits a minor criminal offence than the one that instigation or aiding refers to and which would have been contained in it, the instigator and aider shall receive a penalty for the criminal offence committed.

(3) The provision of paragraph 2 of this Article shall not apply if the instigator would receive a more severe penalty under Article 24, paragraph 2 of this Code.

## ***4. Special Provisions on Liability for Criminal Offences Committed Using the Media***

### **Liability of Chief Editors**

#### **Article 28**

(1) Chief editors shall be held liable for criminal offences committed using the media, or persons replacing them at the time of publication of the information, provided that:

1) the author remains unknown until the end of the main hearing before a first instance court;

2) the information was published without the consent of the author;

3) at the time when the information was published there existed, and still exist, factual or legal obstacles to prosecuting the author.

(2) A chief editor or a person replacing him shall not be held liable if for justified reasons they were not aware of any of the circumstances set out in paragraph 1, items 1 and 3 of this Article.

### **Liability of Publishers, Printing Houses and Producers**

#### **Article 29**

(1) Provided that the requirements set out in Article 28 of this Code are met, the following shall be held liable:

1) publisher – for a criminal offence committed through regular press publications, and where the publisher does not exist or where there are factual or legal obstacles to his prosecution, the printing house which was aware thereof;

2) producer – for a criminal offence committed through a compact disc, phonograph record, magnetic tape and other audio means, film intended for public or private reproduction, slides, video devices or other similar means intended for a wider audience.

(2) Where the publisher, printing house or producer is a legal person or a state authority, the person responsible for publishing, printing or production shall be held liable.

## **Application of Provisions of Articles 28 and 29**

### **Article 30**

The provisions on liability of the persons set out in Articles 28 and 29 of this Code shall only apply where under the general provisions of this Code these persons may not be considered to be perpetrators of a criminal offence.

#### *5. Liability of Legal Persons for a Criminal Offence*

##### **Article 31**

(1) Liability of legal persons for criminal offences and sanctions to be applied thereto shall be laid down by law.

#### **TITLE THREE**

#### **PENALTIES**

##### *1. Purpose of Punishment, Types of Penalties and Requirements for their Imposition*

##### **Purpose of Punishment**

##### **Article 32**

Within the scope of the general purpose of criminal sanctions (Article 4, paragraph 2), the purpose of punishment shall be to:

- 1) prevent the perpetrator from committing criminal offences and influence him not to commit criminal offences in the future;
- 2) influence others not to commit criminal offences;
- 3) express social condemnation of the criminal offence and obligation to obey the law;
- 4) strengthen morality and have an effect on the development of social responsibility.

##### **Types of Penalties**

##### **Article 33**

A criminal offender may be imposed the following penalties:

- 1) long-term prison sentence;
- 2) prison sentence;
- 3) fine;
- 4) community service.

##### **Principal and Accessory Penalties**

##### **Article 34**

- (1) A long-term prison sentence, a prison sentence and community service may be imposed only as principal penalties.
- (2) Fines may be imposed both as principal and accessory penalties.
- (3) Where a single criminal offence carries several penalties, only one of them may be imposed as the principal penalty.

##### **Long-Term Prison Sentences**

##### **Article 35**

- (1) Long-term prison sentences may not be shorter than thirty years or longer than forty years.
- (2) A long-term prison sentence may be prescribed for the most serious criminal offences, provided that it may not be prescribed as the only penalty for a specific criminal offence.
- (2) A long-term prison sentence may not be imposed on persons:

- 1) who were under twenty one years of age at the time of the commission of the offence;
- 2) whose mental capacity was significantly reduced at the time of the commission of the offence (Article 14, paragraph 2);
- 3) who attempted to commit a criminal offence.

## **Prison Sentence**

### **Article 36**

(1) A prison sentence may not be shorter than thirty days or longer than twenty years.

(2) The prison sentence set out in paragraph 1 of this Article shall be imposed in full years and months, and sentences of up to six months shall be imposed also in days.

## **House Arrest**

### **Article 36a**

(1) Where the court imposes a prison sentence on a criminal offender for a term of up to six months, the court may also rule that the sanction be served in the offender's home, provided that the offender's character, his antecedents, conduct following the commission of the offence, degree of culpability, as well as other circumstances of the offence constitute clear grounds to indicate that the purpose of punishment would in this way be served.

(2) The sentenced person imposed to serve a prison sentence in the manner set out in paragraph 1 of this Article may not leave his residence, except in cases laid down by the law governing enforcement of criminal sanctions. If the sentenced person leaves his residence of his own free will either once for more than six consecutive hours or twice for up to six consecutive hours, the court shall then rule that the remainder of the prison sentence be served in the Institution for Enforcement of Criminal Sanctions.

(3) A sentenced person convicted of a criminal offence against marriage and family and living with the injured party in the same household or family community may not be eligible for prison sentence enforcement in the manner set forth in paragraph 1 of this Article.

## **Parole**

### **Article 37**

(1) The court may release on parole a sentenced person serving a prison sentence or a long-term prison sentence who has served two thirds or, exceptionally, one half of his prison sentence or long-term prison sentence, provided that while serving time in prison he improved his behaviour to such an extent that it can be reasonably expected that he would be of good behaviour while at liberty and, in particular, that he would not reoffend during the term for which the sentence was imposed. When deciding whether to release a sentenced person on parole, the court shall give consideration to the sentenced person's conduct and to whether he fulfilled his working obligations in line with his working ability, and particularly to whether he was subject to disciplinary sanctions while serving a prison sentence or a long-term prison sentence, to whether he compensated the damage incurred by his criminal offence and returned material benefit acquired through a criminal offence, as well as to whether the purpose of punishment has been served.

(2) The decision granting parole may order that the sentenced person has to fulfil an obligation set by law.

(3) In the case set out in paragraph 1 of this Article, the prisoner shall be considered to have served his penalty provided that the parole is not revoked.



## **Revocation of Parole**

### **Article 38**

(1) Parole shall be revoked by court where during his parole the sentenced person commits one or more criminal offences for which he is imposed a prison sentence for a term of more than one year, or where the sentenced person fails to fulfil an obligation imposed on him under law.

(2) Parole may be revoked by court if the person on parole commits one or more criminal offences for which he is imposed a prison sentence for a term not exceeding one year. When deciding whether to revoke parole, the court shall give due consideration in particular to relatedness between the criminal offences committed, their respective motives and other circumstances which indicate that revocation of parole is justified.

(3) Provisions of paragraphs 1 and 2 of this Article shall also apply when the person on parole is tried for a criminal offence that he committed before his release on parole.

(4) When a court revokes parole, it shall impose penalty by applying the provisions of Articles 48 and 50, paragraph 2 of this Code and shall consider previously imposed penalty as already determined. Part of the penalty that the sentenced person has served under the previous conviction shall be included into the new penalty, while the time spent on parole shall not be included.

(5) Where a person on parole is sentenced to a prison sentence of up to one year, and the court does not revoke parole, the parole shall be extended by the period the sentenced person spent serving that prison sentence.

(6) In the cases set out in paragraphs 1 to 3 of this Article, parole may be revoked not later than within two years of the date when the parole expired.

## **Fines**

### **Article 39**

(1) A fine may not be set at below two hundred euro. A fine may not exceed twenty thousand euro, while for criminal offences committed out of greed it may not exceed one hundred thousand euro.

(2) When imposed as the principal penalty, a fine shall be imposed as follows:

1) up to two thousand euro for criminal offences punishable by a prison sentence of up to three months;

2) from four hundred to four thousand euro for criminal offences punishable by a prison sentence of up to six months;

3) from six hundred to eight thousand euro for criminal offences punishable by a prison sentence of up to one year;

4) from eight hundred to sixteen thousand euro for criminal offences punishable by a prison sentence of up to two years;

5) minimum one thousand two hundred euro for criminal offences punishable by a prison sentence of up to four years;

6) minimum one thousand two hundred euro for criminal offences which carry a fine as the only penalty.

(3) For criminal offences committed out of greed, a fine as an accessory penalty may be imposed even when it is not prescribed by law, or when law prescribes that a perpetrator shall be punished by either a prison sentence or a fine, and the court imposes a prison sentence as the principal penalty.

(4) Where the court imposes a fine as the principal penalty and additionally imposes a fine as an accessory penalty, a single fine shall be imposed under the rules laid down in Article 48 of this Code.

(5) The judgment shall specify the fine payment time-limit, which may not be shorter than fifteen days or longer than three months. Where so justified, the court may allow the sentenced person to pay the fine in instalments, provided that the payment time-limit is not longer than one year.

(6) Where a sentenced person does not pay a fine within the stipulated time-limit, the court shall replace the fine by a prison sentence by substituting each twenty-five euro amount of fine by one day in prison, provided that the prison sentence may not be longer than six months, and where a fine exceeding nine thousand euro is imposed, the prison sentence may not be longer than one year.

(7) Upon prior consent of the sentenced person, an outstanding fine not exceeding two thousand euro may be substituted by a community service instead of by a prison sentence, by substituting each twenty-five euro amount of his fine by eight hours of community service, provided that the community service may not be longer than three hundred and sixty hours.

(8) Where the sentenced person pays only part of the fine, the court shall substitute the remainder by a prison sentence in a proportionate manner, and where the sentenced person pays the remainder of the fine, his service of the prison sentence shall be discontinued.

(9) Fines shall not be enforced after the death of the sentenced person.

### **Day Fines**

#### **Article 40**

(1) Where it is possible to establish the perpetrator's revenues and expenditures, the court may impose a day fine.

(2) The number of day fines imposed may not be less than ten or more than three hundred and sixty. The number of day fines for a committed criminal offence shall be fixed based on the general rules on the fixing of sentence set out in Article 42 of this Code.

(3) The amount of a day fine shall be determined by dividing the difference between the offender's revenues and necessary expenditures in the previous calendar year by the number of days in a year, provided that one day subject to a fine may not be less than five nor more than one thousand euro.

(4) The court shall reach the amount of a day fine by multiplying the fixed number of day fines by the established value of a single day fine.

(5) With a view to determine the value of day fines the court may request data from banks or other financial institutions, state authorities and legal entities which shall communicate the data requested and which may not invoke protection of business or other secrets.

(6) Where it is not possible to obtain reliable data on the offender's revenues and liabilities, or where he does not earn any income, the court shall use the available data and fix the amount of day fine at its own discretion.

(7) Provisions of Article 39, paragraphs 3 to 9 of this Code shall apply when a fine is imposed in compliance with the provisions of this Article.

### **Community Service**

#### **Article 41**

(1) Community service may be imposed for criminal offences punishable by a fine or a prison sentence of up to five years.

(2) Community service may not be shorter than sixty hours or longer than three hundred and sixty hours, served over a period of time not shorter than thirty days or longer than six months.

(3) This penalty shall be imposed upon prior consent of the perpetrator and may not be longer than sixty hours in a month.

(4) Community service shall be any socially useful work which does not offend human dignity, and is not performed for making profit.

(5) When imposing this penalty, the court shall give due consideration to the type of the criminal offence committed and the perpetrator's personality.

(6) If a perpetrator fails to complete his community service, this penalty shall be replaced by a prison sentence, whereby each sixty hours of community service initiated shall be substituted by a one month prison sentence.

## *2. Fixing of Sentence*

### **General Rules for Fixing Sentences**

#### **Article 42**

(1) The court shall fix a sentence on a criminal offender within the statutory limits for that particular offence, taking into account the purpose of punishment and giving due consideration to all circumstances which result in a lighter or more severe sentence (mitigating and aggravating circumstances) and the following in particular: degree of culpability, motives for the commission of offence, degree of peril or injury to the protected good, circumstances under which the offence was committed, perpetrator's antecedents, his personal circumstances, his behaviour after the commission of criminal offence, particularly his attitude towards the victim of the criminal offence, as well as any other circumstances concerning the perpetrator's personality.

(2) When fixing a fine, the court shall give particular consideration to the perpetrator's financial standing.

(3) A circumstance which is an element of the criminal offence may not be taken into account as either an aggravating or a mitigating circumstance, except where it exceeds the measure required for the existence of a criminal offence or a certain form of a criminal offence, or where there are two or several such circumstances of which only one is sufficient for the existence of a more serious or minor form of the criminal offence.

### **Special Circumstances for Fixing the Sentence for a Hate Crime**

#### **Article 42a**

(1) Where a criminal offence is committed out of hatred towards another person due to his national or ethnic affiliation, race or religion or due to the lack thereof, or due to disability, sex, sexual orientation or gender identity, such a circumstance shall be taken as aggravating by the court, unless that is stipulated as an element of the basic or more serious form of that criminal offence.

(2) Where a criminal offence is committed against a person who belongs to a particularly vulnerable category of persons (children, persons with disabilities, pregnant women, elderly persons, refugees) such a circumstance shall be taken as aggravating by the court.

### **Recidivism**

#### **Article 43**

When fixing a penalty upon an offender for a criminal offence he committed after his penalty was served, remitted, barred by the statute of limitations or after he was released from punishment, after the expiry of the time-limit for revocation of suspended sentence has expired, or after he has been imposed a judicial admonition, the court may take that circumstance as an aggravating one, while at the same time giving due consideration to the gravity of the prior offence, whether his prior offence is of the same kind as the new one, whether both offences were committed out of the same motives, the circumstances under which the offences

were committed and how much time has passed since the earlier conviction, or since the penalty was imposed, remitted, barred by the statute of limitations or since release from punishment, expiry of the deadline for revocation of an earlier suspended sentence or since the judicial admonition imposed.

### **Multiple Recidivism**

#### **Article 44**

(1) The court may impose a more severe penalty than the prescribed one for a criminal offence committed with criminal intent and punishable by a prison sentence, under the following conditions:

1) where the perpetrator has already been convicted twice or more times for criminal offences committed with criminal intent to a prison sentence for a minimum term of one year, and he has a propensity for committing offences;

2) where less than five years passed from the offender's release from service of the previously imposed penalty until the commission of the new criminal offence.

(2) A more severe penalty may not exceed the double of the prescribed penalty nor a twenty year prison sentence.

(3) When assessing whether to impose a more severe penalty than the prescribed one, the court shall give due consideration in particular to the number of prior convictions, relatedness between such prior criminal offences, motives out of which they were committed, circumstances under which the offences were committed, and the need to impose such penalty so as to achieve the purpose of punishment.

### **Mitigation of Penalty**

#### **Article 45**

The court may impose on a perpetrator a penalty below the limit laid down by law or a lighter type of penalty, provided that:

1) the law provides that the perpetrator may receive a lighter sentence;

2) the law provides that the perpetrator may be released from punishment, but the court does not release him from punishment;

3) it is established that there are particularly mitigating circumstances and it is judged that a mitigated penalty will be sufficient to achieve the purpose of punishment.

### **Limits of Mitigation of Penalty**

#### **Article 46**

(1) Where the requirements for mitigation of penalty set out in Article 45 of this Code are met, the court shall mitigate the penalty subject to the following limits:

1) if the criminal offence carries a minimum penalty of five years in prison or more, the penalty may be mitigated by up to two years in prison;

2) if the criminal offence carries a minimum penalty of three years in prison or more, the penalty may be mitigated by up to one year in prison;

3) if the criminal offence carries a minimum penalty of two years in prison, the penalty may be mitigated by up to six months in prison;

4) if the criminal offence carries a minimum penalty of one year in prison, the penalty may be mitigated by up to three months in prison;

5) if the criminal offence carries a minimum penalty of less than one year in prison, the penalty may be mitigated by up to thirty days in prison;

6) if the criminal offence carries a prison sentence whose minimum term is not specified, the prison sentence may be replaced by a fine;

7) if the criminal offence carries a fine whose lowest amount is specified, the penalty may be mitigated by up to six hundred euro.

(2) Where the court is authorized to release the offender from punishment, the court may mitigate his penalty, without taking into consideration the limits prescribed for mitigation of penalty.

### **Release from Punishment**

#### **Article 47**

(1) The offender may be released from punishment by the court only where so explicitly provided for by law.

(2) The perpetrator of an offence committed through negligence may also be released from punishment by the court where the consequences of that offence affect the perpetrator so gravely that imposition of penalty in such a case would manifestly not serve the purpose of punishment.

(3) The perpetrator of an offence punishable by a five year prison sentence may also be released from punishment by the court, provided that after commission but before learning he is exposed, the perpetrator eliminates the consequences of the offence or compensates the damage inflicted by the criminal offence.

### **Concurrence of Offences**

#### **Article 48**

(1) Where a perpetrator committed multiple offences by one or several acts for which he is tried at the same time, the court shall first fix penalties for each of the respective offences, and then impose an aggregate sentence for all those offences.

(2) An aggregate sentence shall be imposed by the court subject to the following rules:

1) where the court fixed a long-term prison sentence for one of the concurrent criminal offences, the court shall impose that penalty only;

2) where the court fixed prison sentences for concurrent criminal offences, it shall increase the most severe penalty fixed, provided that the aggregate sentence may not reach the sum of individual penalties fixed, nor exceed a twenty year prison sentence;

3) where all of the respective concurrent criminal offences carry prison sentences for a term of up to three years, the aggregate sentence may not exceed a ten year prison sentence;

4) where the court fixed only fines for a concurrent criminal offence, the court shall impose one fine which amounts to the sum of fixed fines, provided that it does not exceed twenty thousand euro, or one hundred thousand euro where one or more criminal offences were committed out of greed, and where the court has fixed only day fines, it may not exceed the amount of three hundred and sixty thousand euro;

5) where the court fixed only community services for concurrent criminal offences, it shall impose one community service which amounts to the sum of hours of work to be served, provided that it may not exceed three hundred and sixty hours and that the period within which the community service must be done is not longer than six months;

6) where the court fixed prison sentences for some concurrent criminal offences and fines for other concurrent criminal offences, it shall impose one prison sentence and one fine, under the provisions of items 2 to 4 of this paragraph.

(3) The court shall impose a fine as an accessory penalty provided that it was fixed as a penalty for at least one of the concurrent criminal offences, and where the court has fixed several fines, it shall impose one fine under the provision of paragraph 2, item 4 of this Article.

(4) Where the court fixed prison sentences and youth custody sentences for concurrent criminal offences, it shall impose an aggregate prison sentence under the rules laid down in paragraph 2, item 2 of this Article.

## **Continuing Criminal Offences**

### **Article 49**

(1) A continuing criminal offence shall be composed of several identical or similar criminal offences, committed by the same offender, and which represent a whole because at least two of the following circumstances apply: sameness of the injured party, sameness of the object of offence, use of the same situation or of the same durable relationship, unity of place or area where the offence was committed, or continuity of the perpetrator's criminal intent.

(2) Criminal offences against person may constitute a continuing criminal offence only when committed against the same person.

(3) Offences that due to their nature may not be joined into a single offence may not constitute a continuing criminal offence.

(4) Where a continuing criminal offence comprises minor and more serious forms of the same offence, the most serious form of the offences committed shall be considered to constitute the continuing criminal offence.

(5) The court may impose a more severe penalty than the penalty provided for by law for a continuing criminal offence, provided that the continuing criminal offence consists of at least three criminal offences that meet the requirements set out in paragraph 1 of this Article.

(6) A more severe penalty may not exceed the double of the prescribed penalty nor a twenty year prison sentence.

(7) The criminal offence that is not included in the continuing criminal offence in the final judicial decision shall constitute a separate criminal offence or form part of a separate continuing criminal offence.

## **Penalty Fixing on a Sentenced Person**

### **Article 50**

(1) Where a sentenced person is tried for a criminal offence committed before he started serving his sentence based on a prior conviction, or for a criminal offence committed during his service of a prison sentence or a youth custody sentence, the court shall impose an aggregate sentence for all criminal offences pursuant to the provisions of Article 48 of this Code and shall in so doing take the previously imposed penalty as already fixed. The penalty or part of penalty served by the sentenced person shall be included into the imposed prison sentence.

(2) The court shall impose a penalty on the offender for a criminal offence committed during his service of a prison sentence or a youth custody sentence, irrespective of the previously imposed penalty if the purpose of punishment may not be achieved by applying the provisions of Article 48 of this Code, given the gravity of the criminal offence and the part of earlier penalty not yet served.

(3) A sentenced person who during his service of a prison sentence or youth custody sentence commits a criminal offence punishable by law by either a fine or a prison sentence for a term not exceeding one year shall receive a disciplinary penalty.

## **Time of Detention and Earlier Penalty Included**

### **Article 51**

(1) The time spent in detention, as well as any other deprivation of liberty in relation to a criminal offence shall be included into the imposed prison sentence, youth custody sentence, community service, or a fine.

(2) Where a criminal proceeding was conducted for several concurrent criminal offences and detention was not ordered for each of them, the time spent in detention shall be included into the imposed prison sentence, youth custody sentence,

community service, or a fine for the criminal offence on account of which the accused person was convicted.

(3) The prison sentence or the fine that the sentenced person served or paid respectively for a misdemeanour or economic offence, as well as the penalty or disciplinary measure of deprivation of liberty which he served for violation of military discipline shall be included into the penalty imposed for a criminal offence whose elements include the elements of a misdemeanour, economic offence, or violation of military discipline.

(4) When including an earlier penalty, equivalence shall apply among each day of detention, day of deprivation of liberty, day of youth custody sentence, day of prison sentence, eight hours of community service and the fine amounting to twenty-five euro.

## **TITLE FOUR**

### **WARNING MEASURES**

#### **1. Suspended Sentences and Judicial Admonitions**

##### **Purpose of Suspended Sentences and Judicial Admonitions**

###### **Article 52**

(1) Warning measures shall be: suspended sentences and judicial admonitions.

(2) Within the limits of the general purpose of criminal sanctions (Article 4, paragraph 2), the purpose of a suspended sentence and judicial admonition shall be to avoid imposition on the perpetrator of a penalty for minor criminal offences when that is considered not necessary for criminal justice protection and when it is reasonable to expect that admonition along with threat of punishment (suspended sentence) or an admonition alone (judicial admonition), will have sufficient influence on the perpetrator to deter repeat offending.

##### **Suspended Sentences**

###### **Article 53**

(1) By imposing a suspended sentence the court shall fix a penalty on the criminal offender and order at the same time that such penalty shall not be enforced, provided that the sentenced person does not reoffend within a term set by the court, which may not be shorter than one year or longer than five years (probation term).

(2) The court may specify in the suspended sentence that the penalty shall be enforced even if the sentenced person does not retribute proceeds of crime within the stipulated term, or does not compensate for the damage he caused by the commission of the criminal offence or does not fulfil other obligations provided for in the criminal law provisions. The deadline by which these obligations must be fulfilled shall be set by the court within the limits of the probation term fixed.

(3) Security measures which are imposed together with a suspended sentence shall be enforced.

##### **Requirements for Imposing Suspended Sentences**

###### **Article 54**

(1) A suspended sentence may be imposed when the perpetrator is imposed a prison sentence of up to two years.

(2) A suspended sentence may not be imposed for criminal offences punishable by a prison sentence of up to ten years or a more severe penalty.

(3) A suspended sentence may not be imposed unless more than five years have passed since the finality of the judgment of conviction for an offence committed with a guilty mind. A suspended sentence may not be imposed on a perpetrator who has already been imposed two suspended sentences.

(4) When determining whether to impose a suspended sentence, the court shall take into account the purpose of the suspended sentence and give particular consideration to the perpetrator's personality, his antecedents, his behaviour after the commission of the criminal offence, the degree of culpability and other circumstances under which the offence was committed.

(5) If both a prison sentence and a fine are imposed on a perpetrator, a suspended sentence may be imposed only for the prison sentence.

### **Revocation of Suspended Sentence due to New Criminal Offence**

#### **Article 55**

(1) The court shall revoke a suspended sentence if during his probation term the sentenced person commits one or more criminal offences and receives a prison sentence for a term of two years or more.

(2) Where the sentenced person commits, during his probation term, one or more criminal offences and receives a prison sentence for a term of less than two years or a fine, the court shall decide whether to revoke the suspended sentence after having weighed up all the circumstances of the offences committed and the perpetrator himself, and in particular the relatedness of committed criminal offences, their significance and motives out of which they were committed. The court shall thereat be limited by the rule that a suspended sentence may not be imposed if the perpetrator should be imposed penalty of more than two years in prison for criminal offences determined in the suspended sentence and for the new criminal offences (Article 54, paragraph 1).

(3) Where the court revokes a suspended sentence, it shall impose an aggregate prison sentence by applying the provisions of Article 48 of this Code, for both the previously committed and the new criminal offence, by taking the penalty from the revoked suspended sentence as already imposed.

(4) Where the court does not revoke a suspended sentence, it may impose a suspended sentence or a penalty for the new criminal offence. A sentenced person who receives a prison sentence for the new criminal offence shall not have the period serving that sentence included into the probation term imposed under the suspended sentence for the previous offence.

(5) Where the court finds that a suspended sentence should also be imposed for the new criminal offence, the court shall fix an aggregate sentence for both the earlier and the new criminal offence under the provisions of Article 48 of this Code and shall specify a new probation term for minimum one and maximum five years, counting from the date of finality of the new judgment. Where, during his new probation term, the sentenced person commits a criminal offence again, the court shall revoke the suspended sentence and impose a prison sentence by applying the provision of paragraph 3 of this Article.

### **Revocation of Suspended Sentence due to Prior Criminal Offence**

#### **Article 56**

(1) The court shall revoke a suspended sentence if, after its imposition, the court finds that the sentenced person committed a criminal offence prior to the imposition of a suspended sentence and if the court finds that there would have been no grounds for the imposition of a suspended sentence had the existence of that offence been known. In such a case, the provision of Article 55, paragraph 3 of this Code shall be applied by the court.

(2) If the court does not revoke a suspended sentence, the provision of Article 55, paragraph 4 of this Code shall apply.



## **Revocation of Suspended Sentence due to the Omission to Fulfil Specific Obligations**

### **Article 57**

Where the sentenced person is ordered, under a suspended sentence, to fulfil any of the obligations set out in Article 53, paragraph 2 of this Code, and where he fails to comply within the time limit provided for in the judgment, the court may, during the probation term, extend the time-limit for fulfilling the obligation or revoke the suspended sentence and impose the penalty fixed in the suspended sentence. Where the court finds that the sentenced person cannot fulfil the obligation imposed for justified reasons, the court shall relieve him of the duty to comply with that obligation or replace it by another appropriate obligation laid down by law.

## **Time-limits for Revoking Suspended Sentences**

### **Article 58**

(1) A suspended sentence may be revoked during the probation term. Where the sentenced person commits, during that term, a criminal offence which entails a revocation of the suspended sentence, and that is determined in the judgment only after the expiry of the probation term, the suspended sentence may be revoked at the latest within one year of the date on which the probation term expired.

(2) Where a sentenced person fails to fulfil any of the obligations set out in Article 53, paragraph 2 of this Code within the time-limit set, the court may order that the penalty fixed in the suspended sentence be enforced at the latest within one year of the date on which the probation term expired.

## **Suspended Sentence with Protective Supervision**

### **Article 59**

(1) The court may order that the offender who has been imposed a suspended sentence be placed under protective supervision for a specific period of time during the probation term.

(2) Protective supervision shall include the measures of assistance, care, supervision and protection laid down by law.

## **Requirements for Imposing Protective Supervision**

### **Article 60**

(1) When a court imposes a suspended sentence it may order that the offender be placed under protective supervision if, given his personality, antecedents, behaviour after the commission of criminal offence, and particularly his attitude to the victim of the criminal offence and the circumstances of the offence, it may be expected that protective supervision will better serve the purpose of the suspended sentence.

(2) Protective supervision shall be ordered by the court in the judgment imposing a suspended sentence and ordering measures of protective supervision, their duration, and the method of undertaking them.

## **Obligations While under Protective Supervision**

### **Article 61**

Protective supervision may comprise one or several of the following obligations:

- 1) reporting to the authority in charge of enforcement of protective supervision within the time limits specified by that authority;
- 2) training of the perpetrator for a particular profession;
- 3) accepting a job appropriate to the abilities and partiality of the perpetrator;
- 4) fulfilment of the obligations to maintain a family, care for and educate children and of other family obligations;

- 5) refraining from visiting certain places, bars or events if that may be a chance or incentive for repeat offending;
- 6) timely reporting of any change of residence, address or job;
- 7) refraining from the use of drugs and alcohol;
- 8) treatment in an appropriate health care institution;
- 9) visiting particular professional and other counselling offices or institutions and following their instructions;
- 10) eliminating or mitigating the damage inflicted by the criminal offence in question, and in particular reconciliation with the victim of the criminal offence.

### **Selection of Measures of Protective Supervision**

#### **Article 62**

When selecting the obligations set out in Article 61 of this Code and determining their duration, the court shall give due consideration in particular to the age of the perpetrator, his health status, propensities and habits, motives for the offence, behaviour after commission of criminal offence, antecedents, personal and family circumstances, conditions for fulfilling the obligations ordered, as well as other circumstances related to the offender's personality and which bear relevance to the selection of the measures of protective supervision and their duration.

### **Duration of Protective Supervision**

#### **Article 63**

(1) The duration of protective supervision measures shall be set within the limits of the probation term specified in the suspended sentence.

(2) Protective supervision shall be terminated by revocation of the suspended sentence.

(3) During the period of protective supervision, the court may, in consideration of the results achieved, terminate certain obligations or replace them with other obligations.

(4) Where in the course of protective supervision the court finds that the purpose of this measure has been achieved, it may terminate protective supervision before expiration of the time period for which it was ordered.

### **Consequences of Non-compliance while under Protective Supervision**

#### **Article 64**

Where a sentenced person who was imposed protective supervision does not fulfil the obligations ordered by the court, the court may admonish him or replace previous obligations with other obligations or extend protective supervision within the limits of the probation term or revoke the suspended sentence.

### **Judicial Admonition**

#### **Article 65**

(1) A judicial admonition may be imposed for criminal offences punishable by a prison sentence for a term not exceeding one year or a fine and which were committed under such mitigating circumstances which render them particularly minor.

(2) A judicial admonition may be imposed for certain criminal offences and under the conditions provided for by law, even when they are punishable by a prison sentence for a term not exceeding three years.

(3) A judicial admonition may be imposed by the court for several concurrent criminal offences, provided that the conditions set out in paragraphs 1 and 2 of this Article have been established for each of these respective criminal offences.

(4) When deciding whether to impose a judicial admonition, the court shall, taking into account the purpose of the judicial admonition, give due consideration in particular to the personality of the perpetrator, his antecedents, his behaviour after the commission of criminal offence, and specifically his attitude towards the victim of the offence, the degree of culpability and other circumstances under which the offence was committed.

(5) A judicial admonition may not be imposed on servicemen for criminal offences against the military of Montenegro.

## **TITLE FIVE**

### **SECURITY MEASURES**

#### **Purpose of Security Measures**

##### **Article 66**

Within the limits of the general purpose of criminal sanctions (Article 4, paragraph 2), the purpose of security measures shall be to eliminate the situations or conditions which might influence a perpetrator to reoffend.

#### **Types of Security Measures**

##### **Article 67**

A criminal offender may be imposed the following security measures:

- 1) compulsory mental health treatment and placement in a health care institution;
- 2) compulsory outpatient mental health treatment;
- 3) compulsory drug dependence treatment;
- 4) compulsory treatment of alcoholism;
- 5) disqualification from performing a profession, activity or duty;
- 6) prohibition against operating a motor vehicle;
- 7) confiscation of objects;
- 8) expulsion of a foreign national from the country;
- 9) publication of the judgment;
- 10) restraining order;
- 11) removal from the place of residence.

#### **Imposition of Security Measures**

##### **Article 68**

(1) The court may impose one or more security measures against a criminal offender provided that the requirements for their imposition as set by this Code are met.

(2) Compulsory mental health treatment and placement in a health care institution and compulsory outpatient mental health treatment shall be imposed as individual measures on a mentally incapacitated perpetrator. In addition to these measures, the court may order disqualification from performing a profession, activity or duty, prohibition against operating a motor vehicle and confiscation of objects.

(3) The measures set out in paragraph 2 of this Article may be imposed on a criminal offender whose mental capacity has been significantly diminished, provided that he has already been imposed a penalty or suspended sentence.

(4) Compulsory drug dependence treatment, compulsory treatment of alcoholism, disqualification from performing a profession, activity or duty, prohibition against operating a motor vehicle, confiscation of objects and publication of the judgment may be imposed if the offender has already been imposed a penalty, suspended sentence, judicial admonition or where the offender was released from punishment.

(5) Expulsion of a foreign national from the country may be imposed provided that the perpetrator has already been imposed a penalty or suspended sentence.

(6) Restraining order and removal from the place of residence may be imposed provided that the perpetrator has already been imposed a prison sentence or a fine.

(7) A security measure shall be imposed for concurrent criminal offences provided that it was imposed for one of the concurrent criminal offences.

## **Compulsory Mental Health Treatment and Placement in a Health Care Institution**

### **Article 69**

(1) The court shall impose compulsory mental health treatment and placement in an appropriate health care institution on a perpetrator who committed a criminal offence in a state of significantly reduced mental capacity if it establishes that in consideration of the offence committed and the state of mental alienation there is a serious threat that the perpetrator may commit a more serious criminal offence and that it is necessary to order his medical treatment in such an institution in order to eliminate this threat.

(2) If the conditions set out in paragraph 1 of this Article are met, the court shall order compulsory treatment and placement in a health care institution to the perpetrator who commits, while in a state of mental incapacity, a wrongful act that constitutes a criminal offence by law.

(3) The measure set out in paragraphs 1 and 2 of this Article shall be discontinued by the court once it has established that the need for treatment and confinement of the perpetrator in a medical institution has ceased.

(4) The measure set out in paragraph 1 of this Article imposed together with a prison sentence may also last longer than the sentence imposed.

(5) The time spent in a health care institution by the perpetrator who commits a criminal offence in a state of significantly reduced mental capacity and who has been imposed a prison sentence shall be included in the prison sentence imposed. Where the period spent in a health care institution is shorter than the duration of the penalty imposed, once the security measure ends, the court shall order that the sentenced person serves the remainder of penalty or be released on parole. When rendering a decision to release a person on parole, the court shall give due consideration in particular to the success of the sentenced person's treatment, his health status, time spent in a health care institution and the remainder of penalty not yet served, in addition to the conditions set out in Article 37 of this Code.

## **Compulsory Outpatient Mental Health Treatment**

### **Article 70**

(1) The court shall impose on offenders who, in a state of mental incapacity, commit a wrongful act laid down as a criminal offence under law, the measure of compulsory outpatient mental health treatment, where the court finds that a serious danger exist that the perpetrator may commit a wrongful act laid down as a criminal offence under law and that his outpatient treatment would be sufficient to eliminate this threat.

(2) The measure set out in paragraph 1 of this Article may also be imposed on a mentally incapacitated perpetrator subject to compulsory mental health treatment and placement in an appropriate health care institution, when the court establishes on the basis of the results of such treatment that his placement and treatment in such an institution are no longer needed, and that his outpatient treatment would suffice.

(3) Under the conditions set out in paragraph 1 of this Article, the court may impose compulsory outpatient mental health treatment also on a perpetrator whose mental capacity was significantly reduced, provided that he was imposed a suspended sentence or he was released on parole pursuant to Article 69, paragraph 5 of this Code.

(4) Compulsory outpatient mental health treatment may be occasionally conducted in an appropriate health care institution if that is necessary in view of a more successful treatment, provided that the periodic treatment in a health care institution may not last longer than fifteen days continuously, nor more than two months in total.

(5) Compulsory outpatient mental health treatment shall last as long as there is a need for the treatment, but not longer than three years.

(6) Where, in the case set out in paragraphs 1 to 3 of this Article the perpetrator does not undergo outpatient treatment, or leaves it of his own free will, or where despite treatment, danger of him re-committing a wrongful act which constitutes a criminal offence by law arises, so that his treatment and placement in a relevant health care institution become necessary, the court may impose compulsory mental health treatment and confinement in such an institution.

### **Compulsory Drug Dependence Treatment**

#### **Article 71**

(1) The court shall impose compulsory treatment on a perpetrator who committed a criminal offence due to his drug dependence and where serious danger exists that he would continue to offend due to this addiction.

(2) The measure set out in paragraph 1 of this Article shall be enforced in an institution for the enforcement of sentences or in an appropriate health care or another specialised institution and it shall last for as long as there is a need for treatment, but not longer than three years.

(3) Where the measure set out in paragraph 1 of this Article is imposed with a prison sentence, it may last longer than the imposed sentence, but its total duration may not be longer than three years.

(4) The time spent in an institution for medical treatment shall be included into the prison sentence.

(5) Where the measure set out in paragraph 1 of this Article is imposed with a fine, suspended sentence, judicial admonition or release from punishment, it shall be enforced outside of any confinement and may not last longer than three years.

(6) Where the perpetrator does not undergo outpatient treatment for no justified reason or decides to leave the treatment of his own free will, the court shall order the coercive enforcement of the measure in an appropriate health care or another specialised institution.

### **Compulsory Treatment of Alcoholism**

#### **Article 72**

(1) The court shall impose compulsory treatment on a perpetrator who committed a criminal offence due to his alcoholism and where serious danger exists that he would continue to offend due to this addiction.

(2) The measure set out in paragraph 1 of this Article shall be enforced in an institution for the enforcement of prison sentences or in an appropriate health care or another specialised institution and it shall last for as long as there is a need for treatment, but not longer than the term of the imposed prison sentence.

(3) The time spent in an institution for medical treatment shall be included into the prison sentence.

(4) Where the measure set out in paragraph 1 of this Article is imposed with a fine, suspended sentence, judicial admonition or release from punishment, it shall be enforced outside of any confinement and may not last longer than two years.

(5) Where the perpetrator does not undergo outpatient treatment for no justified reason or decides to leave the treatment of his own free will, the court shall order the coercive enforcement of the measure in an appropriate health care or another specialised institution.

## **Disqualification from Performing a Profession, Activity or Duty**

### **Article 73**

(1) The court may disqualify a perpetrator from a certain profession, activity, all or some of duties related to the disposition, utilization, management or handling of someone else's property or its safekeeping, if it is reasonable to believe that his further engagement in that activity would be dangerous.

(2) The court shall determine the duration of the measure set out in paragraph 1 of this Article, which may not be shorter than one, nor longer than ten years, counting from the date on which the judgment becomes final, provided that the time spent in a prison or health care institution in which the security measure was enforced may not be included into the term of this measure.

(3) Where it imposes a suspended sentence, the court may order that the sentence be revoked if the perpetrator violates the disqualification from performing a profession, activity or duty.

## **Prohibition against Operating a Motor Vehicle**

### **Article 74**

(1) The perpetrator of a criminal offence jeopardising the safety of public transport may receive the measure of prohibition against operating a motor vehicle.

(2) When imposing the measure set out in paragraph 1 of this Article, the court shall specify the types and categories of vehicles that the prohibition applies to.

(3) The measure set out in paragraph 1 of this Article may be imposed where the court finds that the gravity of the offence committed, circumstances under which it was committed or the perpetrator's prior violations of traffic regulations indicate that it is dangerous to let this person drive a motor vehicle of a certain type or category.

(4) The court shall set the duration of the measure set out in paragraph 1 of this Article to a period which may not be shorter than three months nor longer than five years counting from the date on which the judgment becomes final, provided that the time served in a prison or an institution where a security or a correctional measure was enforced may not be included into the term of this measure.

(5) The court may imposed on the perpetrator of a criminal offence jeopardising public transport which resulted in the death of one or more persons the measure set out in paragraph 1 of this Article without temporal restriction (permanently) if he has already been subject to this security measure.

(6) Where the court imposes a suspended sentence, the court may order that the sentence be revoked if the perpetrator violates the prohibition against operating a motor vehicle.

(7) Compulsory prohibition against operating a motor vehicle may be laid down by law.

## **Confiscation of Objects**

### **Article 75**

(1) The objects which were used for or intended for the commission of a criminal offence or which resulted from the commission of a criminal offence may be confiscated, provided that they are owned by the perpetrator.

(2) The objects set out in paragraph 1 of this Article may be confiscated even when they are not owned by the perpetrator if so required for reasons of security of people or property, or for reasons of morality, or where danger still exists that they would be used to commit a criminal offence, where that does not infringes upon the rights of third persons to claim damages from the perpetrator.

(3) Compulsory confiscation of objects and the requirements to for their confiscation may be laid down by law.

(4) Mandatory destruction of confiscated objects may be laid down by law.

### **Expulsion of a Foreign National from the Country**

#### **Article 76**

(1) The court may expel a foreign national who committed a criminal offence from the territory of Montenegro for a term from one to ten years or, where he relapsed into criminal behaviour, he may be expelled for good (Article 43).

(2) When deciding whether to impose the measure set out in paragraph 1 of this Article, the court shall give due consideration to the nature and gravity of the offence committed, motives out of which the criminal offence was committed, manner in which it was committed, and other circumstances suggesting the advisability of not allowing foreign national's further to stay in Montenegro.

(3) The term of expulsion shall commence on the date of final judgment, provided that the time spent in prison may not be included into the term of this measure.

(4) The measure set out in paragraph 1 of this Article may not be imposed against a perpetrator where following his expulsion to another country he may be exposed to torture or inhuman or degrading treatment, or against a perpetrator who enjoys another form of protection under ratified international treaties.

### **Publication of the Judgment**

#### **Article 77**

(1) Where it renders a judgment of conviction for a criminal offence committed using the media or a criminal offence which endangered the life or health of humans, if the publication of the judgment would help eliminate or diminish such danger, the court may order that the entire judgment or its summary form be published, at the expense of the sentenced person, in the same way or in some other appropriate manner.

(2) Mandatory publication of the judgment may be laid down by law. In that case, the court shall specify the media of publication and whether it shall be published in its entirety or in summary form.

(3) The judgment shall be published at the latest within thirty days of the date on which it becomes final.

### **Restraining Order**

#### **Article 77a**

(1) The perpetrator of an offence against sexual freedom, domestic violence, incest, or of another criminal offence threatening the life and limb of a person or of the offence of unauthorised production, possession and distribution of narcotic drugs shall be issued a restraining order by the court under which the offender is ordered not to come close to the victim or another person or a group of persons or to a specific location where there is risk that the offender may repeat in respect of such persons or such a location an identical offence or an offence of the same kind.

(2) The court shall set the duration of the measure set out in paragraph 1 of this Article which may not be shorter than one year nor longer than five years, counting from the date on which the judgment becomes final, provided that the time spent in prison may not be included into the term of this measure.

(3) Following the expiry of one year from the commencement of the measure set out in paragraph 1 of this Article, the court may act upon the proposal of the sentenced person and discontinue the measure, where it finds that the danger set out in paragraph 1 of this Article no longer exists.

(4) The organisational unit in charge of supervising paroles within the ministry competent for judicial affairs shall be notified by the court of the imposition of enforceable measure set out in paragraph 1 of this Article.

## **Removal from the Place of Residence**

### **Article 77b**

(1) Perpetrators of domestic violence shall be imposed by the court the measure of removal from the place of residence, where danger exists that the offender may repeat the criminal offence.

(2) The court shall set the duration of the measure set out in paragraph 1 of this Article which may not be shorter than three months nor longer than three years, counting from the date on which the judgment becomes final, provided that the time spent in prison may not be included into the term of this measure.

(3) The person subject to the measure set out in paragraph 1 of this Article shall, in the presence of a police officer and immediately after the judgment becomes final, vacate their home or another residence used by the joint household.

(4) Following the expiry of six months from the commencement of the measure set out in paragraph 1 of this Article, the court may act upon the proposal of the sentenced person and discontinue the measure, where it finds that the danger set out in paragraph 1 of this Article no longer exists.

(5) The organisational unit in charge of supervising paroles within the ministry competent for judicial affairs and the administrative authority competent for police affairs shall be notified by the court of the imposition of enforceable measure set out in paragraph 1 of this Article.

## **Termination of Security Measures under a Court Decision**

### **Article 78**

(1) The court may order termination of enforcement of the security measures of disqualification from performing a profession, activity or duty and prohibition against operating a motor vehicle, provided that three years have lapsed since their enforcement.

(2) When deciding whether to order termination of a security measure set out in paragraph 1 of this Article, the court shall give consideration to the sentenced person's behaviour following conviction, whether he has compensated for the damage caused by the criminal offence, whether he has restituted the material benefit acquired through the criminal offence, as well as to other circumstances suggesting the advisability of terminating such measures.

## **TITLE SIX**

## **PROVISIONS ON JUVENILES**

### *1. Basic Provisions*

#### **Applicability of Special Criminal Law Provisions to Juveniles**

##### **Article 79**

**- repealed -**

#### **Non-applicability of Criminal Sanctions to Children**

##### **Article 80**

**- repealed -**

#### **Attendance Orders**

**- repealed -**

#### **Purpose of Attendance Orders**

##### **Article 80b**

**- repealed -**



**Types of Attendance Orders**

**Article 80c**

- repealed -

**Selection of Attendance Order**

**Article 80d**

- repealed -

**Application of Attendance Orders**

**Article 80e**

- repealed -

**Criminal Sanctions against Juveniles**

**Article 81**

- repealed -

**Purpose of Correctional Measures and Youth Custody Sentences**

**Article 82**

- repealed -

*2. Correctional Measures*

**Types of Correctional Measures**

**Article 83**

- repealed -

**Selection of Correctional Measure**

**Article 84**

- repealed -

**Imposition of Correctional Measures**

**Article 85**

- repealed -

**Reprimand**

**Article 86**

- repealed -

**Referral to a Juvenile Correctional Facility**

**Article 87**

- repealed -

**Direct Supervision by Parents, Adoptive Parents or Guardians**

**Article 88**

- repealed -

**Direct Supervision by Guardianship Authority**

**Article 89**

- repealed -

**Direct Supervision through a Day Treatment Programme in a Juvenile Correctional Facility**

**Article 90**

- repealed -

**Special Obligations along with Direct Supervision**

**Article 91**

- repealed -

**Referral to a Correctional Facility**

**Article 92**

- repealed -	
Referral to a Reformatory School	
Article 93	
- repealed -	
Release on Parole from a Reformatory School	
Article 94	
- repealed -	
Referral to a Special Treatment and Training Institution	
Article 95	
- repealed -	
Suspension of Enforcement and Replacement of Imposed Correctional Measure by Another Correctional Measure	
Article 96	
- repealed -	
Re-examination of Correctional Measures	
Article 97	
- repealed -	
Imposing a Correctional Measure for Concurrent Criminal Offences	
Article 98	
- repealed -	
Provision of Data on Correctional Measures Imposed	
Article 99	
- repealed -	
<i>3. Youth Custody Sentence</i>	
Punishment of Senior Juveniles	
Article 100	
- repealed -	
Youth Custody Sentence	
Article 101	
- repealed -	
Release on Parole from a Youth Custody Sentence	
Article 102	
- repealed -	
Fixing the Youth Custody Sentence	
Article 103	
- repealed -	
Fixing the Youth Custody Sentence for Concurrent Criminal Offences	
Article 104	
- repealed -	
Time Bars on Enforcement of Youth Custody Sentences	
Article 105	
- repealed -	
Termination of Correctional Measures due to Imposition of Youth Custody Sentences	
Article 106	
- repealed -	
Effect of Penalty on Correctional Measures	

**Article 107**

**- repealed -**

**Effect of Correctional Measures and of Youth Custody Sentences**

**Article 108**

**- repealed -**

**Imposing Security Measures on Juveniles**

**Article 109**

**- repealed -**

*4. Application of Provisions on Juveniles to Adults*

**Imposing Criminal Sanctions on Adults for Offences they Committed as Juveniles**

**Article 110**

**- repealed -**

**Imposing Correctional Measures on Young Adults**

**Article 111**

**- repealed -**

**TITLE SEVEN**

**CONFISCATION OF MATERIAL BENEFIT**

**Article 112**

(1) No one may retain the material benefit acquired through a wrongful act which is laid down by law as a criminal offence.

(2) The benefit set out in paragraph 1 of this Article shall be liable to confiscation under the conditions laid down in this Code and a court decision.

**Requirements for and the Manner of Confiscating Material Benefit**

**Article 113**

(1) Money, valuables and any other material benefit that have been acquired through a criminal offence shall be confiscated from the perpetrator, and where such confiscation is not possible, the perpetrator shall be obliged to pay the amount in money equivalent to the material benefit obtained.

(2) The material benefit subject to reasonable suspicion to be derived from criminal activity may also be confiscated from the perpetrator unless the perpetrator makes its legitimate origin plausible (extended confiscation).

(3) **- repealed -**

(4) **- repealed -**

(5) Proceeds of crime shall also be confiscated from a person to whom they have been transferred for no consideration or from a person who knew, could have known, or was obliged to know that the material benefit was acquired through a criminal offence.

(6) Where material benefit was acquired through a criminal offence for another person, such benefit shall be confiscated.

**Protection of Injured Party**

**Article 114**

(1) Where the injured party has been awarded his claim for damages in criminal proceedings, the court shall order the confiscation of material benefit only insofar as such material benefit exceeds the adjudicated claim of the injured party.

(2) The injured party that has been referred by the criminal court to bringing his claim for damages in a civil action may request to be reimbursed from confiscated

material benefit, provided that he brings a civil claim within six months from the date on which the decision directing him to bring a civil action becomes final and under the further condition that he claims reimbursement from the confiscated material benefit within three months from the date on which the decision awarding his claim becomes final.

(3) An injured party who has not brought a claim for damages in the course of criminal proceedings may request to be reimbursed from confiscated material benefit, provided that he instituted a civil action for the purpose of establishing his claim within three months of the date he learnt of the judgment ordering confiscation of material benefit, but not later than within three years of the date on which the decision ordering confiscation of material benefit becomes final, and provided further that he requests, within three months of the date on which the decision awarding his claim for damages becomes final, to be reimbursed from the confiscated material benefit.

## **TITLE EIGHT**

### **LEGAL CONSEQUENCES OF CRIMINAL CONVICTION**

#### **Effects of Criminal Convictions**

##### **Article 115**

(1) Convictions for certain criminal offences or to certain penalties may result in the legal consequence of cessation or loss of certain rights or of prohibition to acquire certain rights.

(2) Legal consequences of a conviction may not take effect when the perpetrator of an offence was imposed a fine, suspended sentence, unless revoked, judicial admonition, or where the perpetrator has been released from punishment.

(3) Legal consequences of a conviction may be prescribed only under law and shall take effect by force of the law which prescribed them.

#### **Types of Legal Consequences of Criminal Conviction**

##### **Article 116**

(1) Legal consequences of a criminal conviction with respect to termination or loss of certain rights include the following:

- 1) termination of public offices;
- 2) termination of employment or termination of performing a specific profession or occupation;
- 3) loss of certain permits or authorisations which are issued under a decision of a state authority or a local self-government authority.

(2) Legal consequences of a criminal conviction with respect to the disqualification from certain rights include the following:

- 1) disqualification from certain public offices;
- 2) disqualification from a certain title, profession or occupation, or promotions in service;
- 3) disqualification from the rank of military commander;
- 4) disqualification from certain permits or authorisations which are issued under a decision of a state authority or a local self-government authority.

#### **Commencement and Duration of Legal Consequences of Criminal Conviction**

##### **Article 117**

(1) Legal consequences of a criminal conviction shall take effect as of the date on which the judgment becomes final.

(2) In the event that after the judgment under which legal consequences of criminal conviction took effect becomes final, such judgment is reversed following an

extraordinary legal remedy, the commencement or further effects of legal consequences of a criminal conviction shall be adjusted to the new decision.

(3) Legal consequences of a criminal conviction consisting of the disqualification from certain rights may be imposed for a term of up to ten years.

(4) The time spent serving a sentence shall not be included into the term of the legal consequence of a criminal conviction.

(5) Legal consequences of a criminal conviction laid down in Article 116, paragraph 2 of this Code shall be terminated by means of rehabilitation.

## **TITLE NINE**

### **REHABILITATION, TERMINATION OF LEGAL CONSEQUENCES OF A CRIMINAL CONVICTION AND DISCLOSURE OF CRIMINAL RECORDS DATA**

#### **General Notion of Rehabilitation**

##### **Article 118**

(1) Upon rehabilitation, a criminal conviction shall be deleted from the records and all its legal consequences shall be terminated, while the sentenced person shall be considered to be a person without a record of prior convictions.

(2) Rehabilitation shall take effect either under the law (legal rehabilitation) or upon an application filed by the sentenced person on the basis of a court decision (judicial rehabilitation).

Rehabilitation shall not encroach on the rights of third persons based on a criminal conviction.

#### **Legal Rehabilitation**

##### **Article 119**

(1) Legal rehabilitation shall be granted solely to persons who, prior to the conviction that rehabilitation relates to, had no prior convictions or who were considered under law to have no prior convictions.

(2) Legal rehabilitation shall take effect where:

1) a person who was found guilty but released from punishment or who was imposed a judicial admonition does not commit another criminal offence within one year from the date on which the judgment becomes final;

2) a person who received a suspended sentence does not commit another criminal offence during his probation term or within one year of expiry of the probation term;

3) a person sentenced to a fine, community service or up to six months in prison does not commit another criminal offence within three years of the date on which penalty was fully served, barred by the statute of limitations or remitted;

4) a person sentenced to a prison sentence for a term of more than six months to one year does not commit another criminal offence within five years of the date on which penalty was fully served, barred by the statute of limitations or remitted.

(3) Legal rehabilitation may not take effect if an accessory penalty has not been enforced or if security measures are still in force.

#### **Judicial Rehabilitation**

##### **Article 120**

(1) Judicial rehabilitation may be granted to a person sentenced to a prison sentence for a term from more than one year to two years, if the person does not commit another criminal offence within five years of the date on which the penalty became fully served, barred by the statute of limitations or remitted.

(2) Judicial rehabilitation may be granted to a person sentenced to a prison sentence for a term from more than two years to three years, if the person does not

commit another criminal offence within eight years of the date on which the penalty became fully served, barred by the statute of limitations or remitted.

(3) In the cases set out in paragraphs 1 and 2 of this Article, the court shall grant rehabilitation where it finds that owing to his good conduct the sentenced person has deserved to be rehabilitated and where the person has compensated within the limits of his capacity for the damage inflicted by the criminal offence, whereby the court shall give due consideration to any other circumstances of relevance for granting rehabilitation, and specifically the very nature and significance of the criminal offence.

(4) Judicial rehabilitation may not be granted if an accessory penalty has not been enforced or if security measures are still in force.

### **Judicial Rehabilitation of Persons with Several Prior Convictions**

#### **Article 121**

A person having several prior convictions may be granted rehabilitation by the court solely if conditions set out in Articles 119 and 120 of this Code are met with respect to each of the criminal offences that this person has been convicted for. When judging whether to grant rehabilitation in such a case, the court shall take into account the circumstances set out in Article 120, paragraph 3 of this Code.

### **Termination of Legal Consequences of Conviction**

#### **Article 122**

(1) Where three years expire of the date on which the penalty became fully served, barred by the statute of limitations or remitted, the court may decide to terminate a legal consequence of a conviction related to the disqualification from a specific right, unless it has already terminated due to rehabilitation.

(2) When deciding whether to terminate a legal consequence of a conviction, the court shall give consideration to the sentenced person's behaviour following conviction, whether he has compensated for the damage caused by the criminal offence and restituted the material benefit acquired through the criminal offence, as well as to other circumstances suggesting the advisability of terminating a legal consequence of a conviction.

### **Disclosure of Data from Criminal Records**

#### **Article 123**

(1) Criminal records shall include personal data on the criminal offender, criminal offence, penalty, suspended sentence, judicial admonition, release from punishment and remission of penalty, as well as data on the legal consequences of conviction. The criminal records shall also include subsequent changes to criminal records data, information on sentence serving, as well as annulment of records on wrongful convictions.

(2) Records of correctional measures shall contain the following data: personal data on juvenile offenders, data on the criminal offence, data on correctional measures that have been administered and enforced, as well as other data related to the application of correctional measures.

(3) Criminal record data may be disclosed solely to a court, public prosecutor and administration authority competent for police affairs, in connection with criminal proceedings conducted against a person with prior conviction, as well as to authority competent for criminal sanctions enforcement and authority taking part in the procedure of granting amnesty, pardon, rehabilitation or the procedure whereby a decision is made to terminate legal consequences of conviction, as well as to guardianship authorities where so required for the needs of performing affairs within their competence.

(4) Criminal record data may also be disclosed, upon a substantiated request, to a state authority, business organisation, other organization or entrepreneur, where legal consequences of a conviction or security measures are still in effect, and where justified interest based on law exists in doing so.

(5) No one shall be entitled to request a citizen to submit any evidence of their prior convictions or of no criminal conviction.

(6) Upon their application, citizens may be supplied with data of their prior convictions or of no criminal conviction only where they need them the purpose of exercising their rights abroad.

**TITLE TEN**  
**STATUTE OF LIMITATIONS**  
**Time-Barred Prosecution**  
**Article 124**

Unless otherwise provided for by this Code, prosecution may not take place after expiration of:

1) twenty-five years from the commission of a criminal offence punishable under law by a long-term prison sentence;

2) twenty years from the commission of a criminal offence punishable under law by a prison sentence for a term exceeding fifteen years;

3) fifteen years from the commission of a criminal offence punishable under law by a prison sentence for a term exceeding ten years;

4) ten years from the commission of a criminal offence punishable under law by a prison sentence for a term exceeding five years;

5) five years from the commission of a criminal offence punishable under law by a prison sentence for a term exceeding three years;

6) three years from the commission of a criminal offence punishable under law by a prison sentence for a term exceeding one year;

7) two years from the commission of a criminal offence punishable under law by a prison sentence for a term not exceeding one year or a fine.

(2) Where several penalties are laid down for a criminal offence, the statute of limitations shall be determined in accordance with the most severe of the penalties provided.

**Running and Interruption of Statute of Limitations for Prosecution**  
**Article 125**

(1) Statute of limitations for prosecution shall start to run from the date of commission of a criminal offence. If a consequence of a criminal offence occurs at a later time, statute of limitations for prosecution shall start to run from the date on which the consequence occurred.

(2) Statute of limitations shall not run for the time period in which prosecution may not commence or be resumed under law.

(3) Statute of limitations for prosecution for an offence committed against a minor shall not start to run until that person has reached eighteen years of age.

(4) Statute of limitations shall be interrupted by each procedural action taken in view of detecting a criminal offence or exposing and prosecuting an offender for a criminal offence committed.

(5) Statute of limitations shall also be interrupted when an offender commits an equally serious or a more serious criminal offence while the period of statute of limitations is running.

(6) After each interruption, statutory limitations shall start to run anew.

(7) Statute of limitations for prosecution shall take effect in any case upon expiration of twice the time required under law for statute of limitations for prosecution.

### **Statutes of Limitations for Execution of Penalties**

#### **Article 126**

(1) Unless otherwise laid down by this Code, the imposed penalty may not be executed after the expiration of:

1) twenty years from the conviction to a prison sentence for a term exceeding fifteen years;

2) fifteen years from the conviction to a prison sentence for a term exceeding ten years;

3) ten years from the conviction to a prison sentence for a term exceeding five years;

4) five years from the conviction to a prison sentence for a term exceeding three years;

5) three years from the conviction to a prison sentence for a term exceeding one year or a community service;

6) two years from the conviction to a prison sentence for a term shorter than one year or a fine.

(2) Execution of a long-term prison sentence shall not be barred by the statute of limitations.

### **Statutes of Limitations for Execution of Accessory Penalties and Security Measures**

#### **Article 127**

(1) The statute of limitations for enforcement of a fine as an accessory penalty shall take effect after expiration of two years from the date of finality of judgment imposing that penalty.

(2) The statute of limitations for enforcement of security measures of compulsory outpatient mental health treatment, compulsory drug dependence treatment, compulsory treatment of alcoholism and confiscation of objects shall take effect after expiration of five years from the date of finality of the decision ordering such measures.

(3) The statute of limitations for enforcement of security measures of disqualification from performing a profession, activity or duty, prohibition against operating a motor vehicle and expulsion of a foreign national from the country shall take effect after expiration of the time period for which these measures were imposed.

(4) Statutory limitations shall not be applicable to enforcement of the security measure of compulsory mental health treatment and placement in a health care institution; however, where more than five years expired from the date of finality of the judgment imposing the security measure, and where its enforcement has not yet commenced, the court shall examine whether enforcement of this measure is still necessary.

### **Running and Interruption of Statutory Limitations for Execution of Penalties and Security Measures**

#### **Article 128**

(1) Statutory limitations for execution of a penalty shall begin to run on the date of finality of the judgment imposing the penalty, and where the suspended sentence was revoked – on the date of finality of the judgment ordering revocation.

(2) Where the imposed penalty is reduced by an act of amnesty or pardon or a judicial decision upon an extraordinary legal remedy, the time period required for



statutory limitations to take effect shall be determined in accordance with the new penalty, while the duration of statutory limitations shall be calculated from the prior final judgment.

(3) Statutory limitations shall not run during the time period in which the penalty may not be executed under law.

(4) Statutory limitations shall be interrupted by each action taken by a competent authority in view of execution of the penalty.

(5) After each interruption, statutory limitations shall start to run anew.

(6) Statutory limitations for execution of a penalty shall have effect in any case after expiration of twice the time period laid down by law for statutory limitations for execution of a penalty.

(7) Where the statutory limitation set out in paragraph 6 of this Article takes effect, the execution of a penalty that has already started shall be discontinued.

(8) Provisions of paragraphs 2 to 5 of this Article shall also apply accordingly to the statutory limitations for the enforcement of a security measure.

## **Non-Applicability of Statutory Limitations to Prosecution and Execution of Penalties**

### **Article 129**

Statutory limitations shall not be applicable to criminal prosecution and execution of penalties for criminal offences set forth in Articles 264 to 276b, 401, 401a, 422 to 424 and 426 to 431 of this Code, nor to criminal offences which may not be subject to statutes of limitations under ratified international treaties.

## **TITLE ELEVEN**

### **AMNESTY AND PARDON**

#### **Amnesty**

##### **Article 130**

(1) Persons covered by an act of amnesty may be released from criminal prosecution or punishment in whole or in part, and may have the penalty imposed replaced by a lighter penalty, be granted rehabilitation, or have some or all of the legal consequences of the conviction abolished.

(2) The following security measures may be abolished by amnesty: disqualification from performing a profession, activity or duty, prohibition against operating a motor vehicle and expulsion of foreign nationals from the country.

#### **Pardon**

##### **Article 131**

(1) Pardons shall be used to release a specifically named person from criminal prosecution, release him from punishment in whole or part, replace the penalty imposed by a lighter penalty or suspended sentence, grant rehabilitation, reduce the term of a specific legal consequence of conviction, or to abolish individual or all of the legal consequences of conviction.

(2) Pardons may be used to abolish or reduce the term of security measures of disqualification from performing a profession, activity or duty, prohibition against operating a motor vehicle, and expulsion of a foreign national from the country.

## **Effect of Amnesty and Pardon on Rights of Third Persons**

### **Article 132**

Granting of amnesty or pardon shall not encroach on the rights of third persons based on a conviction.

## **TITLE TWELVE**

### **APPLICABILITY OF CRIMINAL LEGISLATION OF MONTENEGRO**

#### **Applicability of Criminal Legislation with Respect to Time**

##### **Article 133**

(1) A criminal offender shall be subject to the law in force at the time of commission of the criminal offence.

(2) Where a law is amended once or several times after the commission of a criminal offence, the law which is most favourable to the perpetrator shall be applied.

(3) A perpetrator of a criminal offence qualified by a law which has a limited time of application shall be subject to that law, irrespective of when he is being tried, unless otherwise laid down by that law.

(4) Security measures and correctional measures prescribed by the new law may be applied to an offender, provided that they are not less favourable to him than those that could have been applied under the law in force at the time of commission of the criminal offence.

#### **Applicability of Criminal Legislation in the Territory of Montenegro**

##### **Article 134**

(1) The criminal legislation of Montenegro shall be applicable to whomever commits a criminal offence in its territory.

(2) The criminal legislation of Montenegro shall also be applicable to whomever commits a criminal offence on board of a domestic ship, regardless of where the ship was located at the time of commission of the offence.

(3) The criminal legislation of Montenegro shall also be applicable to whomever commits a criminal offence on board of a domestic civil aircraft or domestic military aircraft, regardless of where the aircraft was located at the time of commission of the offence.

#### **Applicability of Criminal Legislation of Montenegro to Perpetrators of Specific Criminal Offences Committed Abroad**

##### **Article 135**

The criminal legislation of Montenegro shall be applicable to whomever commits abroad a criminal offence set forth in Articles 357 to 369, Articles 371 to 374 and Articles 447 to 449 of this Code or set forth in Articles 258 and 268 of this Code, provided that counterfeiting refers to money that was the legal tender in Montenegro at the time of commission of the criminal offence.

#### **Applicability of the Criminal Legislation of Montenegro to Nationals of Montenegro who Commit Criminal Offences Abroad**

##### **Article 136**

(1) Criminal legislation of Montenegro shall also be applicable to a national of Montenegro where he commits abroad a criminal offence other than those set out in Article 135 of this Code, provided that he is found in the territory of Montenegro or gets extradited to Montenegro.

(2) Subject to the conditions set out in paragraph 1 of this Article, the criminal legislation of Montenegro shall also apply to an offender who became a national of Montenegro after the commission of a criminal offence.

#### **Applicability of the Criminal Legislation of Montenegro to Foreign Nationals who Commit Criminal Offences Abroad**

##### **Article 137**

(1) Criminal legislation of Montenegro shall also be applicable to a person who is not a national of Montenegro who, outside the territory of Montenegro, commits a criminal offence against Montenegro or against a national of Montenegro, even when those are not criminal offences set out in Article 135 of this Code or who commits a criminal offence set forth in Articles 276a, 276b, 422, 422a, 423 and 424 of this Code, whose commission involved a national of Montenegro in any way, provided that he is caught in the territory of Montenegro or gets extradited to Montenegro.

(2) Criminal legislation of Montenegro shall also be applicable to a person who is not a national of Montenegro and who commits a criminal offence abroad against a foreign country or a foreign national, where such offence is punishable under the law of the country where it was committed by a four-year prison sentence or a more severe sentence, provided that he is caught in the territory of Montenegro but not extradited to a foreign country. Unless otherwise provided for by this Code, in such a case the court may impose a more severe penalty than the penalty provided for by the law of the country where the criminal offence was committed.

### **Special Requirements for Criminal Prosecution**

#### **Article 138**

(1) Where in the case set out in Article 134 of this Code criminal proceedings were instituted or completed in a foreign country, prosecution shall be instituted in Montenegro only upon approval of the Supreme Public Prosecutor of Montenegro.

(2) In the case set out in Article 134 of this Code, foreign nationals may be surrendered to a foreign country for prosecution, under the condition of reciprocity.

(3) In the cases set out in Articles 136 and 137 of this Code, prosecution shall not be instituted where:

- 1) the offender has fully served the penalty he was imposed abroad;
- 2) the offender has been acquitted abroad under a final judgment or if his penalty has become barred by the statute of limitations or remitted;
- 3) an appropriate security measure has been applied abroad against a mentally incapacitated offender;
- 4) under a foreign law, such criminal offence is prosecuted upon an application of the injured party, where such an application has not been filed.

(4) In the cases set out in Articles 136 and 137 of this Code, prosecution shall be instituted only where the criminal offence is also punishable under the law of the country where the offence was committed, with the exception of criminal offences set forth in Articles 268, 276a, 276b, 422, 422a, 423 and 424 of this Code. In the case set out in Articles 136 and 137, paragraph 1 of this Code, where the criminal offence is not punishable under the law of the country where it was committed, prosecution may be instituted solely upon the approval of the Supreme Public Prosecutor.

(5) In the case set out in Article 137, paragraph 2 of this Code, if at the time of commission the offence was considered a criminal offence under the general legal principles recognized by international law, prosecution may be instituted in Montenegro upon the approval of the Supreme Public Prosecutor, irrespective of the law of the country where the criminal offence was committed.

### **Inclusion of Time of Detention and Penalty Served Abroad**

#### **Article 139**

Detention, any other deprivation of liberty in relation to a criminal offence, deprivation of liberty during an extradition procedure, as well as the penalty served by the offender under a judgment of a foreign court, shall be included into the term of penalty imposed by a national court for the same criminal offence, and where penalties are not of the same kind, such calculation shall be left to the court's discretion.

## **Applicability of the Law of a Member State which Prescribes the Criminal Offence**

### **Article 140**

**-Deleted-**

## **Applicability of the General Part of This Code**

### **Article 141**

Provisions of the general part of this Code shall be applicable to all criminal offences laid down by this Code or another law.

## **TITLE THIRTEEN**

### **DEFINITIONS**

#### **Definitions used throughout This Code**

### **Article 142**

(1) The territory of Montenegro is to be understood to mean land, coastal sea, and water areas within its borders, as well as air space above them.

(2) Criminal legislation of Montenegro is to be understood to mean this Code, and all other criminal law provisions contained in other laws of Montenegro.

(3) A public official is deemed to be:

1) a person who performs official duties in a state authority;

2) an elected, appointed or designated person in a state authority, local self-government authority or a person performing, on a permanent or temporary basis, official duties or official functions in these authorities;

3) a person in an institution, business organization or another entity who has been entrusted with the performance of public powers, a person who decides on the rights, obligations or interests of natural or legal persons or on the public interest;

4) and any other person performing official duties under a law, regulations adopted pursuant to laws, contracts or arbitration agreements, as well as a person who is effectively entrusted with the performance of certain official duties or affairs;

5) a serviceman, with the exception of provisions of Title Thirty-Six of this Code.

5a) a person performing in a foreign state legislative, executive, judicial or other public office for a foreign state, a person who performs official duties in a foreign state on the basis of laws, regulations adopted on the basis of laws, contract or arbitration agreement, a person performing official duty in an international public organisation and a person performing judicial, prosecutorial or another office in an international tribunal.

(4) A responsible officer is deemed to be the owner of a business organisation or another entity, or a person in a business organisation, institution or another entity who has been entrusted, given his office, the funds invested or his authority, with a range of duties with respect to property management, production or another activity or with activities or their supervision or has been effectively entrusted with the discharge of certain affairs. A public official shall also be deemed to be a responsible officer in cases of criminal offences perpetrated by the responsible officer, which are not laid down in the title of this Code governing criminal offences against official duty, nor as criminal offences committed by a public official.

(5) A serviceman is deemed to be: professional serviceman (soldiers under contract, non-commissioned officers, non-commissioned officers under contract, officers and officers under contract), members of the reserve forces (reserve soldiers, reserve non-commissioned officers and reserve officers), civilians performing a specific military duty and persons who are, in a state of war or emergency, subject to military service.

(6) Where a public official, a responsible officer or a serviceman is designated as a perpetrator of specific criminal offences, persons set out in paragraphs 3, 4 and 5 of this Article may be perpetrators of those offences, unless where it arises from the

elements of a particular offence or a certain regulation that the perpetrator may be only one of these persons.

(7) A child is deemed to be a person who has not reached the age of fourteen.

(8) A juvenile is deemed to be a person who has reached the age of fourteen, but not the age of eighteen.

(9) A minor is deemed to be a person who has not reached the age of eighteen.

(10) An offender is deemed to be a perpetrator, accomplice, instigator and aider.

(11) A victim is a person who has suffered, by means of an unlawful act which constitutes a crime under law, physical or mental pain, or suffering, property damage or violation of human rights and freedoms.

(12) Proceeds of crime are deemed to be the material benefit obtained, directly or indirectly, through the commission of an offence, consisting of each property increase or prevention of property decrease resulting from the commission of a criminal offence, property into which proceeds of crime have been converted, intermingled or transformed, as well as all other benefits derived from proceeds of crime or from the property into which proceeds of crime have been converted or transformed, irrespective of whether it is located in or outside of the territory of Montenegro, as well as all documents evidencing title to property.

(13) Bribe, within the meaning of this Code, is a gift or another unlawful material or non-material benefit, irrespective of the value.

(14) Force is also deemed to be the use of hypnosis or stupefying agents with the purpose of bringing someone against his will into a state of unconsciousness or inability to offer resistance.

(15) Elections are deemed to be the elections for the Parliament of Montenegro, President of Montenegro, local self-government authorities and other elections called for and conducted on the basis of the Constitution and law.

(16) Referendum is deemed to be the expression of citizens' will whereby they decide on issues determined by the Constitution and law.

(17) Narcotic drugs are deemed to be substances and preparations declared as narcotic drugs in accordance with regulations based on law.

(18) A movable article is also deemed to be all energy generated or collected for yielding light, heat or movement, a telephone impulse, as well as computer data and computer program.

(19) A computer system is deemed to be every device or a group of mutually connected or conditioned devices, of which one or several of them, depending on the program, perform automatic data processing.

(20) A computer data is deemed to be any presentation of facts, data or concepts in a form that is suitable for processing in a computer system, including programs through which a computer system performs its functions.

(21) A computer program is deemed to be a set of ordered computer data on the basis of which a computer system performs its functions.

(22) A computer virus is a computer program which threatens or alters the functions of a computer system and alters, jeopardizes or uses computer data without authorization.

(23) Computer traffic data are deemed to be all computer data generated by computer systems, which make a chain of communication between two mutually communicating computer systems, including themselves.

(24) Protected natural asset is also deemed to be an asset which enjoys provisional protection under regulations on protection of natural assets.

(25) A cultural good is also deemed to be a good which enjoys previous protection under regulations on the protection of cultural goods, a part of a cultural good and the protected surroundings of an immovable cultural good.

(26) Money is coins and banknotes or money made of some other material which is under law in circulation in Montenegro or in a foreign country.

(27) Tokens of value are also deemed to be foreign tokens of value.

(28) A motor vehicle is deemed to be every engine powered means of transport used in road, waterborne and air transport.

(29) A document is deemed to be any item which is suitable or designated to serve as evidence of a specific fact of relevance to legal relations, as well as computer data.

(30) A file, letter, parcel and a document may also be in an electronic form.

(31) Members of a family or family community are also deemed to be former spouses, blood relatives and relatives by full adoption in the direct line of descent without restriction, and in a collateral line up to the fourth degree inclusive, relatives by simple adoption, relatives by marriage up to the second degree inclusive, persons who live in the same household and persons that parent a child or whose child is on the way, even where such persons have never shared a household.

(32) The expression "shall not be punished" means that there exists no criminal offence in that case.

(33) When an imperfective verb is used to define the action of a criminal offence, the offence shall be understood to have been committed, provided that the action was committed once or more times.

**SPECIAL PART**  
**TITLE FOURTEEN**  
**CRIMINAL OFFENCES AGAINST LIFE AND LIMB**

**Homicide**

**Article 143**

A person who takes the life of another person shall be punished by prison sentence for a term from five to fifteen years.

**Aggravated Murder**

**Article 144**

The prison sentence for a minimum term of ten years or a long-term prison sentence shall be imposed on whomever:

- 1) takes the life of another person in a cruel or insidious manner;
- 2) takes the life of another person while acting recklessly and violently;
- 3) takes the life of another and thereat endangers the life of another person with criminal intent;
- 4) takes the life of another person out of greed, in order to commit or conceal another criminal offence, out of unscrupulous revenge or other base motives;
- 5) takes the life of a public official or a serviceman while performing or in relation to performing an official duty;
- 6) takes the life of a child or pregnant woman;
- 7) takes the life of a member of his own family or a family community whom he previously abused,
- 8) acts with criminal intent to take the life of several persons, where such acts do not constitute manslaughter, neonaticide, or mercy killing.

**Manslaughter**

**Article 145**

A person who takes the life of another in the heat of passion, after being brought without his fault into a state of strong irritation by attack, abuse or serious insult coming from the person slaughtered shall be punished by a prison sentence for a term from one to eight years.

## **Neonaticide**

### **Article 146**

A mother who takes the life of her child either during or immediately following delivery, while in a state of childbirth anxiety disorder shall be punished by a prison sentence for a term from six months to five years.

## **Mercy Killing**

### **Article 147**

A person who takes the life of an adult person out of mercy because of that person's serious health condition and upon his earnest and explicit request shall be punished by a prison sentence for a term from six months to five years.

## **Negligent Homicide**

### **Article 148**

A person who takes the life of another person through negligence shall be punished by prison sentence for a term from six months to five years.

## **Instigation to Suicide and Assisted Suicide**

### **Article 149**

(1) Whoever instigates another person to suicide or assists him in committing suicide, where such suicide is completed or attempted, shall be punished by a prison sentence for a term from one to five years.

(2) Whoever assists another person in committing suicide under the conditions set out in Article 147 of this Code, where such suicide is completed or attempted, shall be punished by a prison sentence for a term from three months to three years.

(3) Whoever commits the offence set forth in paragraph 1 of this Article against a juvenile or a person in a state of significantly reduced mental capacity shall be punished by a prison sentence for a term from two to ten years.

(4) Where the offence set forth in paragraph 1 of this Article is committed against a child or a mentally incapacitated person the perpetrator shall be punished under Article 144 of this Code.

(5) Whoever treats a person who is his subordinate or dependent in a cruel or inhuman manner, where due to such treatment the person concerned commits or attempts suicide, and where such suicide may be attributed to perpetrator's negligence, shall be punished by a prison sentence for a term from six months to five years.

## **Unlawful Termination of Pregnancy**

### **Article 150**

(1) Whoever, in violation of the regulations governing the termination of pregnancy, carries out an abortion with the pregnant woman's consent, starts carrying out an abortion or assists a pregnant woman in terminating her pregnancy shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever carries out or starts carrying out an abortion without the consent of a pregnant woman and, where she is younger than eighteen, without her consent or a written approval of her parent, adoptive parent or guardian shall be punished by a prison sentence for a term from one to eight years.

(3) Where, due to an offence set forth in paragraphs 1 and 2 of this Article, the woman subjected to abortion dies or her health is heavily impaired or another serious bodily injury is inflicted upon her, the perpetrator shall be punished for the offence set forth in paragraph 1 of this Article by a prison sentence for a term from six months to six years and for the offence set forth in paragraph 2 of this Article by a prison sentence for a term from two to twelve years.

## **Serious Bodily Injury**

### **Article 151**

(1) Whoever inflicts a serious bodily injury upon another person or who seriously impairs his health shall be punished by a prison sentence for a term from six months to five years.

(2) Whoever inflicts a serious bodily injury upon other person or impairs his health so seriously that the injured person's life is endangered thereby or that any vital part of his body gets destroyed or permanently or considerably damaged or weakened, or that the injured person's permanent inability to work or permanent and serious impairment of his health or deformation is caused shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article results in the death of the injured person, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Whoever commits the offence set forth in paragraphs 1 and 2 of this Article through negligence, shall be punished by a prison sentence for a term not exceeding three years.

(5) Whoever commits the offence set forth in paragraphs 1 to 3 of this Article in the heat of passion, being previously brought into a state of strong irritation without his guilt by an attack, abuse or a serious insult coming from the slaughtered person, shall be punished by a prison sentence for a term not exceeding three years for the offence set forth in paragraph 1, by a prison sentence for a term from three months to four years for the offence set forth in paragraph 2, and by a prison sentence for a term from six months to five years for the offence set forth in paragraph 3.

## **Female Genital Mutilation**

### **Article 151a**

(1) Whoever mutilates external parts of female genitals shall be punished by a prison sentence for a term from one to eight years.

## **Forced Sterilization**

### **Article 151b**

Whoever, by means of force or threats, commits sterilization of another person with a view to make his reproduction impossible shall be punished by a prison sentence for a term from three months to five years.

## **Minor Bodily Injury**

### **Article 152**

(1) Whoever inflicts a minor bodily injury upon another person or who lightly impairs his health shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where such an injury is inflicted by means of weapons, dangerous tools or other instruments suitable for inflicting serious bodily injuries or seriously impairing health, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

(3) A court may impose a judicial admonition on the offender set out in paragraph 2 of this Article provided that the offender was provoked by indecent or coarse behaviour of the injured party.

(4) Prosecution for the offence set forth in paragraph 1 of this Article shall be instituted by a private action.

## **Participating in an Affray**



### **Article 153**

Whoever participates in an affray resulting in the death or serious bodily injury of a person shall be punished on the grounds of participation itself by a prison sentence for a term from three months to three years.

### **Making Threats in Affrays or Brawls with Dangerous Tools**

#### **Article 154**

Whoever while involved in an affray or brawl reaches for weapons, dangerous tools or other instruments suitable for causing serious bodily injury or impairment of health shall be punished by a fine or a prison sentence of up to six months.

### **Exposure to Danger**

#### **Article 155**

(1) Whoever leaves another person without help in a situation and under the circumstances that are dangerous to life or health and are caused by him shall be punished by a prison sentence for a term from three months to three years.

(2) Where, due to the offence set forth in paragraph 1 of this Article, the health of the abandoned person is seriously impaired or where other serious bodily injury is inflicted upon him, the perpetrator shall be punished by a prison sentence for a term from one to five years.

(3) Where, due to the offence set forth in paragraph 1 of this Article, the abandoned person dies, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Abandonment of Helpless Persons**

#### **Article 156**

(1) Whoever leaves a helpless person entrusted to his care or who leaves a helpless person he has to take care of without help in a condition and under circumstances that are dangerous to life or health shall be punished by a prison sentence for a term from three months to three years.

(2) Where, due to the offence set forth in paragraph 1 of this Article, the health of the abandoned person is seriously impaired or where other serious bodily injury is inflicted upon him, the perpetrator shall be punished by a prison sentence for a term from one to five years.

(3) Where, due to the offence set forth in paragraph 1 of this Article, the abandoned person dies, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Failure to Provide Assistance**

#### **Article 157**

(1) Whoever fails to assist another in a state of an immediate danger to his life, although he could have done it with no danger to himself or another, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where due to failure to provide assistance, the health of a person in a state of an immediate danger to his life is seriously impaired or another serious bodily injury is inflicted upon such a person, the offender shall be punished by a fine or a prison sentence for a term not exceeding two years.

(3) Where due to failure to provide assistance, the person in a state of an immediate danger to his life dies, the offender shall be punished by a prison sentence for a term from three months to three years.

TITLE FIFTEEN  
**CRIMINAL OFFENCES AGAINST FREEDOMS AND RIGHTS OF PERSONS AND  
CITIZENS**

**Violation of the Right to Use a Language and Alphabet**

**Article 158**

Whoever, contrary to the regulations governing the use of language and alphabet of peoples or members of national minorities and other minority ethnic communities residing in Montenegro, denies or restricts to a citizen the right to use his mother tongue or alphabet when exercising their rights or addressing authorities or organisations, shall be punished by a fine or a prison sentence for a term not exceeding one year.

**Violation of Equality**

**Article 159**

(1) Whoever, due to national or ethnic affiliation, race or religion or due to the lack thereof, or due to the differences in terms of political or any other belief, sex, language, education, social position, social origin, sexual orientation, gender identity, disability, financial standing or any other personal characteristic, denies or restricts to another human rights and freedoms enshrined in the Constitution, laws or other regulations or general acts or ratified international treaties, or provides to another privileges or benefits based on such differences, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article was committed out of hatred towards a member of a group defined by virtue of race, skin colour, religion, origin, nationality or ethnic affiliation, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(3) Where the offence set forth in paragraph 2 of this Article was committed by a public official while performing his duties, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

**Violation of Freedom of Expression of National or Ethnic Affiliation**

**Article 160**

(1) Whoever prevents other person from expressing his national or ethnic affiliation or culture shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever forces other person to declare his national or ethnic affiliation.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article was committed by a public official while performing his duties, he shall be punished by a prison sentence for a term not exceeding three years.

**Violation of the Freedom to Manifest One's Religion and to Practice Religious Rites**

**Article 161**

(1) Whoever prevents or restricts the freedom of belief or the freedom to manifest one's religion shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever prevents or obstructs the practice of religious rites.

(3) Whoever forces another person to declare his religious beliefs shall be punished by a fine or a prison sentence for a term not exceeding one year.

(4) A public official who commits an offence set forth in paragraphs 1 to 3 of this Article shall be punished by a prison sentence for a term not exceeding three years.

## **Unlawful Deprivation of Liberty**

### **Article 162**

(1) Whoever unlawfully incarcerates, keep as a prisoner, or in any other manner unlawfully deprives another person of liberty or limits his freedom of movement shall be punished by a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article was committed by a public official by abuse of his position or authority, he shall be punished by a prison sentence for a term from six months to five years.

(3) Where the unlawful deprivation of liberty lasts longer than thirty days, or it is committed in a cruel manner, or the health of the person unlawfully deprived of liberty is seriously impaired or where other grave consequences arose, the offender shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 and 3 of this Article results in the death of the person unlawfully deprived of his liberty, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(5) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

## **Violation of Freedom of Movement and Residence**

### **Article 163**

(1) Whoever unlawfully denies or restricts to another freedom of movement or residence in the territory of Montenegro shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article was committed by a public official while performing his duties, he shall be punished by a prison sentence for a term not exceeding three years.

## **Abduction**

### **Article 164**

(1) Whoever, by use of force, threat, deception or in other manner takes away or keeps someone with the intention to extort money or another material benefit from that person or from another or to force him or another person to act, refrain from acting, or endure something shall be punished by a prison sentence for a term from one to eight years.

(2) Whoever in view of accomplishing the aim of abduction threatens the abductee by murder or serious bodily injury shall be punished by a prison sentence for a term from two to ten years.

(3) Where the abductee is held for more than ten days or is treated with cruelty or where the abductee's health is heavily impaired or where other grave consequences arose, or where the offence set forth in paragraph 1 of this Article is committed against a minor, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Where the offence set forth in paragraphs 1, 2 and 3 of this Article results in the death of the abductee or where the offence was committed by several persons in an organised manner, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

## **Coercion**

### **Article 165**

(1) Whoever compels someone by means of force or threats to act, or refrain from acting, or to endure something shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever commits the offence set forth in paragraph 1 of this Article in a cruel manner or by threat of murder or serious bodily injury or abduction shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in a serious bodily injury or other grave consequences, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in death of the person under coercion, or where the offence was committed by several persons in an organised manner, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

### **Extorting a Testimony**

#### **Article 166**

(1) A public official who while performing his duties uses force or threats or other inadmissible means or inadmissible manner with the intention to extort a testimony or another statement from the accused, witness, expert witness or another person shall be punished by a prison sentence for a term from three months to five years.

(2) Where the extortion of testimony or statement is accompanied by severe violence, or where extremely grave consequences occur for the accused in criminal proceedings due to extorted testimony, the offender shall be punished by a prison sentence for a term from two to ten years.

### **Ill-treatment**

#### **Article 166a**

(1) Whoever ill-treats another or treats another in a manner that offends human dignity shall be punished by a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

(3) An attempted offence set forth in paragraphs 1 and 2 of this Article shall be subject to punishment.

### **Torture**

#### **Article 167**

(1) Whoever inflicts severe pain or great suffering on another, whether bodily or mental, in order to obtain from him or a third party a confession or another information or in order to unlawfully punish or intimidate him, or to exert pressure over him or to intimidate or exert pressure over a third party, or does so for other reasons based on discrimination shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties or where the offence was committed under his explicit or implied consent, or where a public official incited another person to commit an offence set forth in paragraph 1 of this Article, he shall be punished for the offence set forth in paragraph 1 of this Article by a prison sentence for a term from one to eight years.

### **Endangering Safety**

#### **Article 168**

(1) Whoever endangers the safety of another person by threatening to attack his life or limb or that of a person close to him shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever commits the offence set forth in paragraph 1 of this Article against more than one person, or where the offence caused anxiety of citizens or other grave consequences or was committed out of hatred shall be punished by a prison sentence for a term from three months to three years.

(3) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

### **Stalking Article 168a**

(1) Whoever persistently stalks another person in a manner that may considerably endanger his life, health, body or way of life shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed against a former spouse or common-law partner, the offender shall be punished by a prison sentence for a term from three months to five years.

(3) Offenders who commit the offence against a minor, a pregnant woman or a person with disability shall be punished by the sentence set out in paragraph 2 of this Article.

(4) Where the offence set forth in paragraph 1 of this Article caused danger to life, health or limb of another person or a person close to him, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(5) Where the offence set forth in paragraph 1 of this Article results in the death of another person or a person close to him, the perpetrator shall be punished by a prison sentence for a term from one to ten years.

(6) A person is deemed to be persistently stalking another person, within the meaning of this Article, where during a specific period of time:

- 1) he follows in an unauthorized manner or takes other actions with a view to achieving physical closeness to such a person;
- 2) he attempts to establish a contact with that person contrary to his will, directly, through a third party or means of communication;
- 3) he abuses personal data of that person in order to order goods or services;
- 4) he threatens the life, limb or freedom of that person or a person close to him;
- 5) he undertakes other similar actions towards that person.

### **Breach of Inviolability of a Dwelling Article 169**

(1) Whoever enters without authorisation another person's dwelling or closed premises or does not leave such a dwelling or premises upon the request of an authorized person shall be punished by a fine or prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

(3) An attempted offence set forth in paragraphs 1 and 2 of this Article shall be subject to punishment.

### **Unlawful Search Article 170**

A public official who while performing his duties unlawfully searches dwellings, premises, or persons shall be punished by a prison sentence for a term from three months to three years.

## **Unauthorized Disclosure of Secrets**

### **Article 171**

(1) An attorney-at-law, a physician or another person who discloses without authorization a secret that has come to his knowledge while performing his profession shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) A person who discloses a secret in the general interest or in the interest of another person where such interest prevails over the interest to keep a secret, shall not be punished for the offence set forth in paragraph 1 of this Article.

## **Violation of Secrecy of Correspondence and Other Parcels**

### **Article 172**

(1) Whoever unauthorisedly opens another person's letter, telegram or another closed document or parcel or otherwise intrudes on their secrecy or who unauthorisedly withholds, conceals, destroys or delivers to another somebody else's letter, telegram or another parcel or who violates the secrecy of electronic mail shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever communicates to another the contents he has learnt by violation of secrecy of another person's correspondence, or of any other document or parcel, telegram or another closed document or parcel or who makes use of such contents.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article was committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

## **Unauthorized Wiretapping and Recording**

### **Article 173**

(1) Whoever unauthorisedly and by using special devices wiretaps or records a conversation, statement or any other communication not intended for his use shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever allows a third person to be informed with the conversation, statement or other communication which were unauthorisedly wiretapped or audio recorded.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article was committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

## **Unauthorized Photography**

### **Article 174**

(1) Whoever unauthorisedly makes a photographic, film, video or other recording of someone and thereby considerably encroaches on the privacy of other person's life or who delivers or shows such a recording to a third party or enables a third party to come to the knowledge of such recordings in another manner shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

## **Unauthorised Publication and Showing of Another Person's Documents, Portraits and Recordings**

### **Article 175**

(1) Whoever publishes or shows a document, portrait, photograph, film or a phonogram of a personal character without the consent of the person who has drawn up the document or to whom the document relates, or without the consent of the person shown on the portrait, photograph or film or of the person whose voice is recorded on the phonogram or without the consent of another person which is required under law, thereby considerably encroaching on the private life of that person, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

### **Unauthorised Collection and Usage of Personal Data**

#### **Article 176**

(1) Whoever unauthorisedly obtains personal data that are collected, processed and utilized under law, communicates such data to another, or uses them for purposes other than those for which they were intended, shall be punished by a fine or a prison sentence of up to one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever contrary to law, collects citizens' personal data or utilizes so collected data.

(3) Whoever unauthorisedly takes the identity of another person and who under the name of that person exercises any of that person's rights or obtains for himself or for another some advantage, or who by using that person's identity encroaches on that person's private life or harms his personal dignity or causes another harm to that person, shall be punished by a prison sentence for a term not exceeding one year.

(4) Where the offence set forth in paragraphs 1 and 3 of this Article was committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

### **Precluding the Existence of Criminal Offences Set Forth in Articles 172 to 176 of This Code**

#### **Article 176a**

Whoever prevents or detects a criminal offence punishable under law by a five-year prison sentence or a more severe penalty, by taking the act of commission of any of the offences set forth in Articles 172 to 176 of this Code, shall not be subject to penalty for any of those offences.

### **Violation of the Right to Lodge a Legal Remedy**

#### **Article 177**

(1) Whoever prevents another person from exercising his right to file a petition, application, action, appeal, objection, another legal remedy or any other brief, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

### **Violation of Freedom of Speech and Public Speaking**

#### **Article 178**

(1) Whoever unlawfully denies the right to or restricts freedom of speech or public speaking to another person shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

### **Preventing Printing and Distribution of Printed Materials and Broadcasting**

#### **Article 179**

(1) Whoever prevents or obstructs, without authorisation, the printing, recording, sale or distribution of books, magazines, newspapers, audio and video cassettes or other similar printed or recorded materials shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever prevents or obstructs, without authorisation, the broadcasting of radio or television programmes.

(3) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

### **Preventing the Publication of Responses and Correction Notices**

#### **Article 180**

Whoever contrary to a final decision of a court of law, rejects or prevents the publication of a response or correction notice concerning incorrect information that were published or information violating someone's right or interest shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Preventing Public Gatherings**

#### **Article 181**

(1) Whoever, by means of force, threats, deception or otherwise prevents or obstructs a public gathering organised in compliance with law shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

### **Prevention of Political, Trade Union or Other Association and Activity**

#### **Article 182**

Whoever knowingly violates law or acts in some other unlawful manner to prevent or obstruct political, trade union or other association or activity of citizens or activities of their political, trade union or other organizations, shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Prosecution for Criminal Offences against Freedoms and Rights of Persons and Citizens**

#### **Article 183**

Prosecution for offence set forth in Article 169, paragraph 1, 172, paragraphs 1 and 2, 173, paragraphs 1 and 2, 174, paragraph 1, 175, paragraph 1, 176 paragraphs 1 and 2 and 177 paragraph 1 of this Code shall be instituted upon a private action, except where the injured person is the person set out in Article 42a paragraph 2 of this Code.



TITLE SIXTEEN  
**CRIMINAL OFFENCES AGAINST ELECTORAL RIGHTS**  
**Violation of the Right to Stand for Election**

**Article 184**

Whoever prevents or obstructs another person from standing for election by breaching the law or in some other unlawful manner, shall be punished by a fine or a prison sentence for a term not exceeding one year.

**Violation of the Right to Vote**

**Article 185**

(1) Whoever acts with intent to prevent another from exercising his right to vote and for that purpose unlawfully fails to enter another in the electoral register, deletes another from the electoral register or takes another unlawful action to prevent or obstruct his right to vote, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever, with the intention to enable another person to cast his vote unlawfully, enters such a person in the electoral register, or enables another to cast his vote in some other unlawful manner, even though that right does not belong to such person.

**Violation of the Freedom of Choice in the Casting of Ballots**

**Article 186**

(1) Whoever, by means of force or threats, coerces another person or who otherwise exerts unlawful influence on him to cast his ballot or not to cast his ballot in an election or referendum or to cast his ballot in favour of or against a specific candidate, electoral list or a proposal, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever requests or accepts a gift or some other benefit or who accepts a promise of a gift or some other benefit for himself or another person in return for agreeing to cast his ballot or not to cast his ballot in favour or against a specific individual.

(3) The present or other benefit accepted shall be confiscated.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article is committed by a member of the polling board or another person discharging a duty regarding the taking of the poll, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(5) Whoever after an election or referendum takes a voter to account for his ballot casting or requires him to state who or what he had cast his ballot for, or why he had cast his ballot or did not do so shall be punished by a fine or a prison sentence for a term not exceeding one year.

**Abuse of the Right to Vote**

**Article 187**

(1) Whoever in an election or referendum votes instead of another person under that person's name, or who votes more than once, or uses more than one ballot paper in the same election, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) A member of the polling board who enables another to commit the offence set forth in paragraph 1 of this Article shall be punished by a fine or a prison sentence for a term not exceeding two years.

## **Compilation of Inaccurate Electoral Registers**

### **Article 188**

Whoever, with the intention to influence the results in an election or referendum, compiles an inaccurate electoral register shall be punished by a fine or a prison sentence for a term not exceeding three years.

## **Preventing the Taking of the Poll**

### **Article 189**

(1) Whoever prevents or obstructs the taking of the poll at a polling station by means of force, threats or in another unlawful manner, shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever obstructs voting by disturbing peace at the polling station, due to which the taking of the poll gets adjourned, shall be punished by a fine or a prison sentence for a term not exceeding two years.

## **Preventing Election Observation**

### **Article 190**

A member of an election administration authority who prevents or obstructs observation of the voting process or of determining election results by a person duly authorized to do so under law or based on a decision of the competent state authority, shall be punished by a fine or a prison sentence for a term not exceeding one year.

## **Violations of Ballot Secrecy**

### **Article 191**

(1) Whoever violates the secrecy of ballot in an election or referendum shall be punished by a fine or a prison sentence for a term not exceeding six months.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a member of the polling board or another person performing duties regarding the taking of the poll, he shall be punished by a fine or a prison sentence for a term not exceeding two years.

## **Falsification of Voting Results**

### **Article 192**

A member of an election or referendum administration authority or another person performing duties regarding the taking of the poll, who by adding or taking away ballot papers or votes during the count or otherwise, alters the number of ballot papers or votes or who declares false voting results shall be punished by a fine or a prison sentence for a term not exceeding three years.

## **Destroying Election Papers**

### **Article 193**

(1) Whoever destroys, damages, takes possession of or conceals a ballot paper or another paper which concerns the taking of the poll in an election or referendum, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a member of the polling board or another person discharging a duty regarding the taking of the poll, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

## **Unauthorized Use of State Assets for Election Purposes**

### **Article 193a**

A public official who uses or enables the use of the property of state bodies, public institutions, public enterprises and funds, local self-government units and companies in which the state has an ownership interest for the purposes of presentation of electoral list, shall be punished by a prison sentence for a term from six months to five years.

### **Serious Offences against Electoral Rights**

#### **Article 194**

(1) Where an offence set forth in Articles 185, 186, 187, 189, 190, 191, 192 and 193 of this Code resulted in a violation of public law or where property the value of which exceeds twenty thousand euro was imperilled, or where lives of a number of people were endangered, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(2) Where an offence set forth in Articles 185, 186, 187, 189, 190, 191, 192 and 193 of this Code resulted in a serious bodily injury of a person or property damage exceeding the amount of forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to ten years.

(3) Where an offence set forth in Articles 185, 186, 187, 189, 190, 191, 192 and 193 of this Code resulted in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from five to eighteen years.

### **TITLE SEVENTEEN**

### **OFFENCES AGAINST HONOUR AND REPUTATION**

#### **Insult**

#### **Article 195**

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#### **Defamation**

#### **Article 196**

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### **Dissemination of Information about Private and Family Life**

#### **Article 197**

(1) Whoever states or disseminates information about the personal or family life of a person that may harm his honour or reputation, shall be punished by a fine ranging from three thousand euro to ten thousand euro.

(2) Where the offence set forth in paragraph 1 of this Article was committed using the media or similar means or at a public gathering, the perpetrator shall be punished by a fine ranging from five thousand euro to fourteen thousand euro.

(3) If information stated or disseminated have caused or could have caused grave consequences to the injured party, the offender shall be punished by a fine in the minimum amount of eight thousand euro.

(4) The person who has stated or disseminated information about someone's personal or family life while performing an official duty, journalistic profession, defending a right or protecting justified interests, shall not be punished, provided that he proves the veracity of his allegation or that he had a well-founded reason to believe in the veracity of what he stated or transmitted.

(5) The veracity or non-veracity of information stated or disseminated regarding someone's personal or family life may not be proven, with the exception of the cases set out in paragraph 4 of this Article.

**Tarnishing the Reputation of Montenegro**  
**Article 198**

Whoever publicly exposes Montenegro, its flag, coat of arms, or anthem to mockery shall be punished by a fine or a prison sentence for a term not exceeding one year.

**Tarnishing the Reputation of Nations, National Minorities and Other Minority Ethnic Communities**

**Article 199**

Whoever publicly exposes a nation, national minority or another minority ethnic community living in Montenegro to mockery shall be punished by a fine ranging from three thousand to ten thousand euro.

**Tarnishing the Reputation of Foreign States or International Organisations**

**Article 200**

(1) Whoever publicly exposes to mockery a foreign state with which Montenegro has diplomatic relations, its flag, coat of arms, or anthem shall be punished by a fine ranging from three thousand to ten thousand euro.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever publicly exposes to mockery the United Nations Organization, the International Red Cross, or another international organisation of which Montenegro is a member.

**Impunity for Criminal Offences Set Forth in Articles 198 to 200**

**Article 201**

Perpetrators shall not be punished for offences set forth in Articles 198 to 200 of this Code where the presentation was given within a serious criticism in a scientific, literary, or artistic work, or while performing an official duty, journalistic profession, political activity, while defending a right or protecting justified interests, provided that the manner of expression or other circumstances show that he has not done it with the intention to discredit or where he proves the veracity of his allegation or that he had a well-founded reason to believe in the veracity of what he was stating or disseminating.

**Prosecution for Offences against Honour and Reputation**

**Article 202**

(1) Prosecution for the offence set forth in Article 197 of this Code shall be instituted by a private action.

(2) Where the offence set forth in Article 197 of this Code was committed against a deceased person, prosecution shall be instituted by a private action of his spouse or of the person who lived with the deceased in a durable customary marriage, or of a relative in the direct line of descent, adoptive parent, adopted child, or brother or sister of the deceased person.

(3) Prosecution for the offence set forth in Article 200 of this Code shall be instituted upon approval of the Supreme Public Prosecutor of Montenegro.

**Publication of the Judgment for Criminal Offences against Honour and Reputation**

**Article 203**

(1) When imposing a sentence for the offences set forth in Articles 197 to 200 of this Code committed using the media, the court shall impose the security measure of publication of the judgment (Article 77). In the case of the criminal offence set forth in

Article 197 of this Code, this measure shall require the assent of the person against whom the offence was committed.

(2) The court shall release from punishment the perpetrator of the criminal offence set forth in Article 197 of this Code and impose a security measure of publication of the judgment where the court finds that the measure will suffice to achieve the general purpose of criminal sanctions.

(3) In the cases set out in paragraphs 1 and 2 of this Article, the judgment shall be published in the same media outlet, on the same page of the print media, or in the same show of the electronic media in which the information satisfying the elements of the criminal offence was publicized, or in the primetime news shows. The court may order publication of the judgment in other media as well.

(4) The court shall determine whether to publish the judgment in whole or in summary form.

(5) Where a summary form is published, it shall include a notification of the judgment being passed, as well as its enacting terms, and a section from the reasoning of judgment chosen by the court.

## TITLE EIGHTEEN CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM

### Rape

#### Article 204

(1) Whoever forces another into sexual intercourse or another act of equivalent nature without the person's consent shall be punished by a prison sentence for a term from one to eight years.

(2) Whoever forces another into sexual intercourse or another act of equivalent nature by means of force or threats to directly attack the life or limb of that or of another person shall be punished by a prison sentence for a term from two to ten years.

(3) Where the offence set forth in paragraphs 1 or 2 of this Article was committed under a threat of revealing information about that or another person that would harm their honour or tarnish their reputation or by a threat of committing another grave wrong, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where an offence set forth in paragraphs 1, 2 or 3 of this Article results in a serious bodily injury of a person against whom the offence was committed, or where the offence was committed by several persons or in an especially cruel or especially degrading manner, or against a juvenile, or where the offence resulted in pregnancy, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

(5) Where an offence set forth in paragraphs 1, 2 or 3 of this Article results in the death of the person against whom the offence was committed or where the offence was committed against a child, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

## Forced Sexual Intercourse with a Physically Helpless Person

### Article 205

(1) Whoever has a forced sexual intercourse with another or an equal act taking advantage of that person's mental illness, arrested mental development, other mental alienation, physical helplessness or some other state of that person due to which he is not capable to put up resistance, shall be punished by a prison sentence for a term from two to ten years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in infliction of a serious bodily injury upon the physically helpless person, or where the offence was

committed by several persons or in an especially cruel or especially degrading manner, or against a juvenile, or where the act resulted in pregnancy, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

(3) Where an offence set forth in paragraphs 1 and 2 of this Article results in the death of the person against whom the offence was committed or where the offence was committed against a child, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

### **Assault of a Child by Penetration**

#### **Article 206**

(1) Whoever commits assault of a child by penetration or other act of equivalent nature against a child shall be punished by a prison sentence for a term from three to twelve years.

(2) Where the offence set forth in paragraph 1 of this Article results in a serious bodily injury of the child against whom the offence was committed, or where the offence was committed by several persons or where it results in pregnancy, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

(3) Where an offence set forth in paragraphs 1 and 2 of this Article results in the child's death, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

(4) The perpetrator of the offence set forth in paragraph 1 of this Article shall not be punished provided that there is no major difference between him and the child in terms of their mental and physical development.

### **Forced Sexual Intercourse by Abusing a Position of Authority**

#### **Article 207**

(1) Whoever abuses his position to incite another person to engage in a forced sexual intercourse or other act of equivalent nature, where that party is in a subordinate or dependent position in relation to the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(2) A teacher, preschool teacher, guardian, adoptive parent, parent, stepfather, stepmother, or another person who abuses his position of powers to commit a forced sexual intercourse or other act of equivalent nature with a juvenile entrusted to him for study, education or care shall be punished by a prison sentence for a term from one to ten years.

(3) Where the offence set forth in paragraph 2 of this Article is committed against a child, the perpetrator shall be punished by a prison sentence for a term from three to twelve years.

(4) Where the offence set forth in paragraphs 1 to 3 of this Article results in pregnancy, the perpetrator shall be punished for the offence set forth in paragraph 1 of this Article by a prison sentence for a term from six months to five years; for the offence set forth in paragraph 2 by a prison sentence for a term from two to twelve years, and for the offence set forth in paragraph 3 by a prison sentence for a term from three to fifteen years

(5) Where the offence set forth in paragraph 3 of this Article resulted in the child's death, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

### **Unlawful Sex Acts**

#### **Article 208**

(1) Whoever performs, under the conditions set out in Article 204, paragraphs 1, 2 and 3, Article 205, paragraphs 1 and 2, Article 206, paragraph 1 and Article 207,

paragraphs 1 to 3 of this Code, some other sex act shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Where the offence set forth in paragraph 1 of this Article results in a serious bodily injury of a person against whom the offence was committed, or where the offence was committed by several persons or in an especially cruel or especially degrading manner, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(3) Where the offence set forth in paragraph 1 of this Article results in the death of the person against whom the offence was committed, the perpetrator shall be punished by a prison sentence for a term from three to fifteen years.

### **Pandering and Making Arrangements for a Sex Act**

#### **Article 209**

(1) Whoever panders a minor in view of a forced sexual intercourse, another act of the same nature, or another sex act shall be punished by a prison sentence for a term from one to eight years.

(2) Whoever makes arrangements for another to engage in a forced sexual intercourse, another act of the same nature, or some other sex act with a minor shall be punished by a prison sentence for a term from six months to five years.

### **Pandering**

#### **Article 210**

(1) Whoever solicits or instigates another to prostitution or participates in procuring one person to another for prostitution or who through the media and by other similar means promotes or advertises prostitution shall be punished by a prison sentence for a term from three months to two years.

(2) Where the offence set forth in paragraph 1 of this Article is committed against a minor, or where the offence was committed by several persons in an organised manner, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(3) The penalty set out in paragraph 2 of this Article shall also be imposed on whomever uses the sexual services of a minor.

(4) Pandering is, within the meaning of this Article, the use of persons for sexual activities whereby money or any other form of compensation or reward is given or promised as a payment for hiring such a person to take part in sexual activities, regardless of whether the payment, promise or reward are given to that person or to a third party.

### **Child Pornography**

#### **Article 211**

(1) Whoever sells, gifts, shows or makes accessible to a child by publicly exhibiting, via information and communication technologies or otherwise photographs, texts, audio-visual material or other items of pornographic content or who shows the child a pornographic performance shall be punished by a prison sentence for a term from six months to five years.

(2) Whoever induces or exploits a child to produce photos, audio-visual material or other items of pornographic content (child pornography) or for a pornographic performance shall be punished by a prison sentence for a term from one to eight years.

(3) The penalty set out in paragraph 2 of this Article shall be imposed on whomever unauthorisedly records, produces, offers, makes accessible, distributes, imports, exports, procures for himself or for another, sells, gives, shows, publicly

displays or possesses photos, audio-visual material or other items of pornographic content (child pornography).

(4) Where the offence set forth in paragraphs 1 and 2 of this Article is committed against a juvenile, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(5) Where the offence set forth in paragraph 2 of this Article is committed by means of force or threats, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(6) The objects set out in paragraphs 1 to 3 of this Article shall be confiscated and destroyed.

(7) Child pornography, within the meaning of this Article, is deemed to be any material that visually depicts a child engaged in real or simulated sexually explicit conduct and any depiction of a child's sexual organs for primarily sexual purposes.

### **Incitement of a Minor to Observe Criminal Offences against Sexual Freedom**

#### **Article 211a**

(1) Whoever incites a child to observe rape, forced sexual intercourse or another act of equivalent nature, or other unlawful sex act shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed against a juvenile by means of force or threats, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraph 1 of this Article is committed by means of force or threats, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Luring a Child for Criminal Offences against Sexual Freedom**

#### **Article 211b**

An adult who with the intention to commit criminal offences set forth in Article 204, paragraph 5, Article 205, paragraph 3, Article 206, Article 207, paragraph 3, Article 208, paragraph 1, Article 209, Article 210, paragraph 1, and Article 211, paragraphs 1 and 4 of this Code by using information-communication technologies or otherwise arranges a meeting with a child or takes steps towards arranging such a meeting, shall be punished by a prison sentence for a term from six months to five years.

### **Prosecution for Criminal Offences against Sexual Freedom**

#### **Article 212**

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TITLE NINETEEN

### **CRIMINAL OFFENCES AGAINST MARRIAGE AND FAMILY**

#### **Bigamy**

#### **Article 213**

(1) Whoever concludes a new marriage while being already married shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever marries a person knowing that person to be married.

### **Concluding a Void Marriage**

#### **Article 214**

(1) Whoever, when concluding a marriage, conceals from the other party a fact which makes the marriage void or who misleads or keeps the other party misled



regarding that fact shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever coerces another person, by means of force or threats, into concluding a marriage shall be punished by a prison sentence for a term from six months to five years.

(3) Whoever incites another to go abroad or takes another person abroad with the intention to commit the criminal offence set forth in paragraph 2 of this Article, shall be punished by a prison sentence for a term from three months to three years.

(4) Prosecution for the offence set forth in paragraphs 1 and 2 of this Article may be undertaken only if the marriage thus concluded has been declared void.

### **Enabling the Conclusion of a Forbidden Marriage**

#### **Article 215**

Where a public official authorized to conclude marriages knowingly allows while performing his duties the conclusion of a marriage which is prohibited or void under law, he shall be punished by a prison sentence for a term from three months to three years.

### **Customary Marriage with a Juvenile**

#### **Article 216**

(1) An adult person who cohabitates in a customary marriage with a juvenile shall be punished by a prison sentence for a term from three months to three years.

(2) A parent, adoptive parent or a guardian who allows a juvenile to cohabitate in a customary marriage with another or instigates him into such marriage shall be punished by the penalty set out in paragraph 1 of this Article.

(3) Where the offence set forth in paragraph 2 of this Article is committed by means of force, threats or out of greed, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(4) Where marriage is concluded, prosecution shall not be instituted, and where it has been instituted, it shall be discontinued.

### **Abduction of a Minor**

#### **Article 217**

(1) Whoever unlawfully takes possession of or abducts a minor from his parent, adoptive parent, guardian, or other person or institution entrusted with the care of the minor or who prevents enforcement of a decision entrusting the care of a minor to a specific individual shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Whoever prevents enforcement of a decision made by a competent authority stipulating the manner in which the minor will maintain a personal relationship with his parent or other relative shall be punished by a fine or a prison sentence for a term not exceeding one year.

(3) Where the offence set forth in paragraph 1 of this Article was committed out of greed or other base motives or where it resulted in a serious threat to the health, upbringing or education of the minor the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(4) Where a perpetrator of the offences set forth in paragraphs 1 and 3 of this Article voluntarily surrenders a minor to a person or institution entrusted with the care of the minor or allows for enforcement of the decision giving custody of the minor, he may be released from punishment by the court.

(5) Where the court imposes a suspended sentence for the offence set forth in paragraphs 1 to 3 of this Article, the court may order the perpetrator to surrender the minor within a specified term to the person or institution entrusted with the care of

the minor or to enable enforcement of the decision giving custody of the minor to a person or institution or of the decision stipulating the manner in which the minor will maintain personal relationships with his parent or another relative.

### **Change of Family Status**

#### **Article 218**

(1) Whoever foists a child onto another person, who substitutes, or otherwise changes a child's family status shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever substitutes a child or otherwise changes a child's family status through negligence shall be punished by a prison sentence for a term not exceeding one year.

(3) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

### **Neglecting or Ill-treating a Minor**

#### **Article 219**

(1) A parent, adoptive parent, guardian or other person who grossly neglects his duty to provide care and education to a minor for whom he has to take care of shall be punished by a prison sentence for a term not exceeding three years.

(2) A parent, adoptive parent, guardian or other person who abuses a minor or forces him into excessive labour or labour not appropriate to his age or to beggary, or who instigates him out of greed to perform other acts that are detrimental to his development shall be punished by a prison sentence for a term from three months to five years.

### **Domestic Violence**

#### **Article 220**

(1) Whoever uses gross violence to violate bodily or mental integrity of his family member or member of a family community shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Where the offence set forth in paragraph 1 of this Article was committed by means of weapons, dangerous tools or other instruments suitable for inflicting serious bodily injury or seriously impairing one's health the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(3) Where an offence set forth in paragraphs 1 and 2 of this Article resulted in a serious bodily injury or serious impairment of health or where they are committed against a minor, the perpetrator shall be punished by a prison sentence for a term from one to five years.

(4) Where an offence set forth in paragraphs 1, 2 and 3 of this Article results in the death of a member of a family or family community, the perpetrator shall be punished by a prison sentence for a term from three to twelve years.

(5) Whoever violates the protection measures against domestic violence imposed on him by court or another state authority under law shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Failure to Pay Maintenance**

#### **Article 221**

(1) Whoever fails to pay maintenance for a person they are obliged to maintain under law, where such duty is laid down by an enforceable court decision or an enforceable settlement before a court of law or other competent body, in the amount and in the manner specified by the decision or the settlement, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Perpetrator of the offence set forth in paragraph 1 of this Article shall not be punished if he failed to pay maintenance for justified reasons.

(3) Where the offence set forth in paragraph 1 of this Article resulted in grave consequences to the maintained person, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(4) The court shall impose, in the judicial decision, an obligation on the perpetrator to settle his due liabilities and regularly pay maintenance.

### **Violation of Family Obligations**

#### **Article 222**

(1) Whoever, in violation of his statutory family obligations, abandons in a situation of distress a family member who is unable to take care of himself shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in a serious impairment of the family member's health, the perpetrator shall be punished by a prison sentence for a term from one to five years.

(3) Where the offence set forth in paragraph 1 of this Article results in the death of the family member, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the court imposes a suspended sentence for the offence set forth in paragraphs 1 and 2 of this Article, the court may order the perpetrator to fulfil his statutory family obligations.

### **Incest**

#### **Article 223**

An adult who performs a sexual intercourse or another act of equivalent nature over a minor direct blood relative or over a minor brother or sister shall be punished by a prison sentence for a term from six months to five years.

## **TITLE TWENTY**

### **CRIMINAL OFFENCES AGAINST LABOUR RIGHTS**

#### **Violation of Labour Rights**

##### **Article 224**

(1) Whoever knowingly fails to adhere by laws or other regulations, collective agreements and other general legal acts on labour rights and special safety at work of youth, women and persons with disabilities and thereby denies or limits to another a right vested in him, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Whoever cancels a contract of employment to an employee who, having a well-founded suspicion that a criminal offence with elements of corruption was committed, files a criminal report or addresses competent persons or authorities, shall be punished by a prison sentence for a term not exceeding three years.

#### **Breach of Employment Equality**

##### **Article 225**

Whoever knowingly breaches regulations or otherwise denies or restricts a citizen's right to unimpeded equal opportunity in employment in the territory of Montenegro, shall be punished by a fine or a prison sentence for a term not exceeding one year.

#### **Unlawful Employment**

##### **Article 225a**

Whoever employs a foreign national who is neither a national of an European Union member state, nor enjoys freedom of movement in the European Union, and who illegally resides in the territory of Montenegro, in exploitative working conditions or knowing that the person is a victim of trafficking in persons or younger than eighteen or who employs such a person for a longer period of time or who repeatedly employs such a person or employs a large number of such persons at the same time, shall be punished by a prison sentence for a term from six months to five years.

### **Breach of the Right to Management**

#### **Article 226**

(1) Whoever, by means of force, threats, wilful breach of regulations or in another unlawful manner prevents or obstructs managing bodies in their decision making or a member of a managing body from taking part in the work and decision making of that body, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed by a public official or by the responsible officer by abusing his position or authority, he shall be punished by a fine or a prison sentence for a term not exceeding two years.

### **Violation of the Right to Strike**

#### **Article 227**

(1) Whoever, by means of force, threats or in another unlawful manner prevents or obstructs employees from lawfully going on strike, participating in a strike or otherwise exercising their right to strike, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall be imposed on whomever cancels the contract of employment to one or several employees due to their participation in a strike organised and conducted in accordance with law, collective agreement or who applies to them other measures violating their labour rights.

### **Abuse of the Right to Strike**

#### **Article 228**

Whoever organizes or leads a strike contrary to law or other regulations and thereby endangers human life, health, or property the value of which exceeds twenty thousand euro, or who thereby causes other grave consequences, unless these constitute elements of another criminal offence, shall be punished by a prison sentence for a term not exceeding three years.

### **Violation of Social Insurance Rights**

#### **Article 229**

Whoever knowingly fails to adhere to laws or other regulations or general legal acts governing social insurance and thereby denies or restricts another of a right vested in him, shall be punished by a fine or a prison sentence for a term not exceeding two years.

### **Misuse of Social Insurance Rights**

#### **Article 230**

Whoever fabricates or induces illness or incapacity to work or otherwise unlawfully makes himself eligible for a social insurance right he is not entitled to under law or other regulations or general acts, shall be punished by a fine or a prison sentence for a term not exceeding one year.

## **Breach of Rights in Time of Temporary Unemployment**

### **Article 231**

Whoever knowingly fails to adhere to laws or other regulations or general legal acts governing the rights of citizens during temporary unemployment and thereby denies or restricts to another person a right vested in him, shall be punished by a fine or a prison sentence for a term not exceeding two years.

## **Failure to Take Workplace Safety Measures**

### **Article 232**

(1) An officer responsible for taking workplace safety measures who knowingly fails to adhere to laws or other regulations or general legal acts governing workplace safety measures, which may result in danger to workers' life or health, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the court imposes a suspended sentence, it may order the perpetrator to comply with occupational health measures within a specified time limit.

## **TITLE TWENTY-ONE**

## **CRIMINAL OFFENCES AGAINST INTELLECTUAL PROPERTY**

### **Violation of Moral Rights of Authors and Performers**

#### **Article 233**

(1) Whoever under his own name or under the name of another person makes public, in whole or in part, distributes copies of someone else's copyrighted work or performance or otherwise communicates to the public someone else's copyrighted work or performance shall be punished by a fine or a prison sentence of up to three years.

(2) Whoever publishes, in whole or in part, another person's copyrighted work under his own name, on the basis of which he gets elected to a scientific or teaching-scientific position, shall be punished by a fine or a prison sentence for a term not exceeding four years.

(3) Whoever without a permit of the author alters or re-arranges someone else's copyrighted work or recorded performance shall be punished by a fine or a prison sentence for a term not exceeding one year.

(4) Whoever distributes copies of someone else's copyrighted work or performance in a manner which is insulting to the author or performer's honour or reputation shall be punished by a fine or a prison sentence for a term not exceeding six months.

(5) Objects of the criminal offence and items used for or intended for the commission of a criminal offence set forth in paragraphs 1 to 4 of this Article shall be confiscated and objects of the criminal offence shall be destroyed.

(6) Prosecution for the offence set forth in paragraph 4 of this Article shall be instituted by a private action.

## **Unauthorized Use of Copyrighted Works or Objects of Related Rights**

### **Article 234**

(1) Whoever unauthorisedly publicizes, records, duplicates or otherwise communicates to the public or makes available, in whole or in part, a copyrighted work, performance, phonogram, videogram, show or database, shall be punished by a prison sentence for a term not exceeding three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever releases into circulation, or with the intention of releasing into circulation, possesses copies of copyrighted works, performances, phonograms, videograms, shows or databases that have been unauthorisedly duplicated or released into circulation.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article was committed with the intention to acquire material benefit for himself or another, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(4) Objects of the criminal offence and items used for or intended for the commission of a criminal offence set forth in paragraphs 1 and 2 of this Article shall be confiscated and objects of the criminal offence shall be destroyed.

### **Unauthorised Circumvention of Protection Measures Intended for Prevention of Violations of Copyright and Related Rights and Rights-Related Information**

#### **Article 235**

(1) Whoever produces, imports, releases into circulation, sells, leases, advertises in the interest of sale or leases or keeps for commercial purposes any devices or instruments whose basic or prevailing purpose is removal, circumvention or thwarting of technological measures intended for the prevention of violations of copyright and related rights or who uses such devices or instruments in the interest of violating copyright or related rights, shall be punished by fine or a prison sentence for a term not exceeding three years.

(2) Objects of the criminal offence and items used for or intended for the commission of a criminal offence set forth in paragraph 1 of this Article shall be confiscated and objects of the criminal offence shall be destroyed.

### **Unauthorized Removal or Alteration of Electronic Rights Management Information**

#### **Article 236**

(1) Whoever unauthorisedly removes or alters electronic rights management information, or distributes, imports, broadcasts or otherwise communicates to the public or makes publicly available a copyrighted work or object of related legal protection knowing that electronic rights management information has been removed or altered without authority, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Objects of the criminal offence and items used for or intended for the commission of the criminal offence set forth in paragraph 1 of this Article shall be confiscated and objects of the criminal offence shall be destroyed.

### **Patent Infringement**

#### **Article 237**

(1) Whoever unauthorisedly produces, imports, exports, offers in view of distribution, distributes, stores or uses in commercial transactions a patented product or process, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article results in material benefit or causes damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Whoever unauthorisedly publicizes or otherwise makes available the essence of someone else's reported invention before the invention was made public in the manner laid down by law, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(4) Whoever unauthorisedly files a patent application or does not designate the inventor in the application or designates him falsely, shall be punished by a prison sentence for a term from six months to five years.

(5) Objects of the criminal offence and items used for or intended for the commission of a criminal offence set forth in paragraphs 1 to 3 of this Article shall be confiscated and objects of the criminal offence shall be destroyed.

## **Design Infringement**

### **Article 238**

(1) Whoever unauthorisedly uses on their product, in whole or in part, someone else's registered or protected product design shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Whoever unauthorisedly makes public or otherwise makes available to the public the object of someone else's design application before it was made public in the manner laid down by law, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(3) Objects of the criminal offence and items used for or intended for the commission of a criminal offence set forth in paragraph 1 of this Article shall be confiscated and objects of the criminal offence shall be destroyed.

## **TITLE TWENTY TWO**

### **CRIMINAL OFFENCES AGAINST PROPERTY**

#### **Theft**

##### **Article 239**

(1) Whoever takes from another his movable article with the intention to obtain for himself or for another unlawful material benefit through its appropriation, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

#### **Aggravated Theft**

##### **Article 240**

(1) The perpetrator of theft (Article 239) shall be punished by a prison sentence for a term from one to eight years where the theft was committed:

- 1) by unlawfully breaking and entering into locked buildings, rooms, cash desks, cabinets or other locked areas, or by overcoming of other major obstacles;
- 2) by several persons who conspired to commit thefts;
- 3) in a particularly dangerous or particularly impudent manner;
- 4) by a person who had on him a weapon or dangerous tool for attack or defence;
- 5) during a fire, flood, earthquake or another accident;
- 6) by taking advantage of physical helplessness or other distress of another person.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a person who commits theft, where the value of stolen articles exceeds three thousand euro or where a stolen article constitutes a cultural good or a natural asset.

(3) Where the value of stolen property exceeds thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

#### **Theft and Use of Force to Retain Stolen Goods**

##### **Article 241**

(1) Whoever is caught committing a theft and who, with the intention to retain the stolen property, exerts force against another or threats of imminent attack on the life or limb of another shall be punished by a prison sentence for a term from one to eight years.

(2) Where the value of stolen property exceeds the amount of three thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(3) Where the value of stolen property exceeds the amount of thirty thousand euro the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Where the offence set forth in paragraphs 1 to 3 of this Article was committed by a group or where a serious bodily injury was inflicted on another with criminal intent the perpetrator shall be punished by a prison sentence for a term from three to fifteen years.

(5) Where during the commission of offence set forth to in paragraphs 1 to 3 of this Article a person was killed with intent, the perpetrator shall be punished by a prison sentence for a minimum term of ten years or by a long-term prison sentence.

(6) Where the value of stolen property set out in paragraph 1 of this Article does not exceed the amount of one hundred and fifty euro, and where the perpetrator intended to acquire only small-scale material benefit, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

(7) An attempted offence set forth in paragraph 6 of this Article shall be subject to punishment.

### **Robbery Article 242**

(1) Whoever exerts force against another or threats of imminent attack on the life or limb of another to deprive another of their movable article with the intention to obtain for himself or for another unlawful material benefit through its appropriation shall be punished by a prison sentence for a term from two to ten years.

(2) Where the value of articles deprived exceeds the amount of three thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(3) Where the value of articles deprived exceeds the amount of thirty thousand euro the perpetrator shall be punished by a prison sentence for a term from three to fifteen years.

(4) Where the offence set forth in paragraphs 1 to 3 of this Article was committed by a group or where a serious bodily injury was inflicted on another with criminal intent the perpetrator shall be punished by a prison sentence for a term from three to fifteen years.

(5) Where during the commission of offence set forth in paragraphs 1 to 3 of this Article a person was killed with intent, the perpetrator shall be punished by a prison sentence for a minimum term of ten years or by a long-term prison sentence.

(6) Where the value of stolen property set out in paragraph 1 of this Article does not exceed the amount of one hundred and fifty euro, and the perpetrator intended to acquire small-scale material benefit, the perpetrator shall be punished by a prison sentence for a term of up to three years.

(7) An attempted offence set forth in paragraph 6 of this Article shall be subject to punishment.

### **Embezzlement Article 243**

(1) Whoever misappropriates a movable article of another which is entrusted to his care, with the intention to obtain unlawful material benefit for himself or for another, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Where the value of embezzled articles exceeds three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to six years.

(3) Where the value of embezzled articles exceeds thirty thousand euro or where the embezzled article constitutes a cultural good, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Whoever misappropriates a movable article of another which he found or incidentally came by, with the intention to obtain material benefit for himself or another, shall be punished by a fine or a prison sentence for a term not exceeding one year.



(5) Where the embezzled articles are privately owned, prosecution for the offences set forth in paragraphs 1 to 4 of this Article shall be instituted by a private action

### **Fraud**

#### **Article 244**

1) Whoever misleads another person or keeps him misled by false representation or concealment of facts, inducing him thereby to act or refrain from acting to the detriment of his property or property of another, with the intention to obtain unlawful material benefit for himself or another, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Whoever commits the offence set forth in paragraph 1 of this Article with the sole intention to cause damage to another, shall be punished by a fine or a prison sentence for a term not exceeding six months.

(3) Where the offence set forth in paragraph 1 and 2 of this Article results in obtaining a material benefit or inflicting damage exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article results in obtaining a material benefit or inflicting damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

### **Competition Fixing**

#### **Article 244a**

(1) Whoever fixes sports or other competitions with the intention to obtain benefit for himself or another, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the commission of offence set forth in paragraph 1 of this Article results in a material benefit exceeding ten thousand euro, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(3) Where the commission of offence set forth in paragraph 1 of this Article results in a material benefit exceeding forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to ten years.

(4) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

### **III-Founded Getting and Use of Loans and Other Facilities**

#### **Article 245**

(1) Whoever falsely represents or conceals facts to get for himself or another person a loan, subsidy or other facility, even though he does not meet the prescribed requirements therefor, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Whoever uses the gotten loan, subsidy or other facility for purposes other than the ones the loan, subsidy or other facility was granted for, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(3) The penalty for the offences set forth in paragraphs 1 and 2 of this Article shall also be imposed on the responsible officer of a business organisation or entity engaged in commercial activity, where the loan, subsidy or other facility were obtained for the business organisation or other entity engaged in commercial activity or where they were not used by these entities for intended purposes.

### **Petty Theft, Embezzlement and Fraud**

#### **Article 246**

(1) Whoever commits a petty theft, embezzlement or fraud shall be punished by a fine or a prison sentence for a term not exceeding six months.

(2) Theft, embezzlement and fraud are deemed petty if the value of things stolen or embezzled or damage caused by fraud does not exceed the amount of one hundred fifty euro, and the offender intended to acquire small-scale material benefit or to cause small-scale damage.

(3) Where the offence set forth in paragraph 1 of this Article is committed against private property, prosecution shall be instituted by a private action.

### **Misappropriation**

#### **Article 247**

(1) Whoever misappropriates a movable article of another without intention to obtain material benefit shall be punished by a fine or a prison sentence for a term not exceeding six months.

(2) Where the value of misappropriated article exceeds three thousand euro, the perpetrator shall be punished by a prison sentence for a term not exceeding two years.

(3) Where the value of misappropriated article exceeds thirty thousand euro or where the article is a cultural good, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(4) Where the offence set forth in paragraphs 1 to 3 of this Article is committed against privately owned property, prosecution shall be instituted by a private action.

### **Taking Motor Vehicle or Other Conveyance without Authority**

#### **Article 248**

(1) Whoever takes another person's motor vehicle without lawful authority, with the intention to drive it, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Where the perpetrator of the offence set forth in paragraph 1 of this Article negligently causes damage exceeding one thousand euro to the taken vehicle or where he allows another person to damage it, he shall be punished by a fine or a prison sentence for a term not exceeding three years.

(3) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

### **Breach of Trust**

#### **Article 249**

(1) Whoever abuses authorisation to represent property interests of another or take care of his property, with the intention to obtain material benefit for himself or another or to cause damage to the person whose property interests are represented by him or whose property is taken care of by him, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article results in material benefit or causes damage exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to six years.

(3) Where the offence set forth in paragraph 1 of this Article results in material benefit or causes damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 to 3 of this Article is committed by a guardian or an attorney-at-law, he shall be punished for the offence set forth in paragraph 1 by a prison sentence for a term from six months to five years, for the offence set forth in paragraph 2 by a prison sentence for a term from one to eight

years, and for the offence set forth in paragraph 3 by a prison sentence for a term from two to ten years.

### **Extortion**

#### **Article 250**

(1) Whoever, by means of force or threats, coerces another to act or refrain from acting to the detriment of his property or property of another, with the intention to obtain unlawful material benefit for himself or another, shall be punished by a prison sentence for a term from one to eight years.

(2) Where the offence set forth in paragraph 1 of this Article results in material benefit exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(3) Where the offence set forth in paragraph 1 of this Article results in material benefit exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Whoever commits offences set forth in paragraphs 1 to 3 of this Article on a regular basis, or where the offence was committed by several persons in an organised manner, shall be punished by a prison sentence for a term from three to fifteen years.

### **Blackmail**

#### **Article 251**

(1) Whoever with the intention to obtain unlawful material benefit for himself or another threatens another to reveal information on him or a person close to him tarnishing their honour or reputation, thereby forcing him to act or refrain from acting to the detriment of his property or property of another, shall be punished by a prison sentence for a term from three months to five years.

(2) Where the offence set forth in paragraph 1 of this Article results in material benefit exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraph 1 of this Article results in material benefit exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(4) Whoever commits offences set forth in paragraphs 1 to 3 of this Article on a regular basis, or where the offence was committed by several persons in an organised manner, shall be punished by a prison sentence for a term from two to twelve years.

### **Usury**

#### **Article 252**

(1) Whoever lends money or other consumable articles in return for a disproportionately high material benefit shall be punished by a prison sentence for a term not exceeding three years and by a fine.

(2) Whoever in return for lending money or other consumable articles to another receives or agrees to receive for himself or another a disproportionately high material benefit, by taking advantage of difficult financial situation, position of vulnerability, necessity, levity or poor judgment of the injured party shall be punished by a prison sentence for a term from three months to three years and by a fine.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in grave consequences to the injured party or where the perpetrator obtained material benefit exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from six months to five years and by a fine.

(4) Where the offence set forth in paragraph 1 and 2 of this Article results in a material benefit exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years and by a fine.

### **Destroying and Damaging Property of Another Person**

#### **Article 253**

(1) Whoever destroys, damages or makes useless the property of another shall be punished by a fine or a prison sentence for a term not exceeding six months.

(2) Where the offence set forth in paragraph 1 of this Article caused damage exceeding three thousand euro, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding two years.

(3) Where the offence set forth in paragraph 1 of this Article caused damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(4) In cases of offences set forth in paragraph 1 of this Article, where the damaged property is privately owned, prosecution shall be instituted by a private action.

### **Destroying and Damaging Cultural Goods**

#### **Article 253a**

(1) Whoever damages, destroys or makes useless a cultural good shall be punished by a prison sentence for a term from one to eight years.

### **Smuggling Cultural Goods**

#### **Article 253b**

(1) Whoever brings in or takes out of Montenegro a cultural good without the authorization of the competent authority shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever appropriates a cultural good that he took out of Montenegro without the authorization of the competent authority shall be punished by a prison sentence for a term not exceeding five years.

(3) Whoever commits offences set forth in paragraphs 1 to 2 of this Article on a regular basis, or where the offence was committed by several persons in an organised manner, shall be punished by a prison sentence for a term from one to eight years and by a fine.

(4) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

### **Unlawful Occupation of Land**

#### **Article 254**

(1) Whoever occupies land of another person without authority shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the occupied land is part of a protection forest, national park or other land intended for special purposes, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

### **Thwarting the Rights of Others**

#### **Article 255**

(1) Whoever, with the intention to thwart the realization of a property right claim, disposes of, destroys, damages, or takes away his property on which another person has a lien or right of enjoyment, thereby causing damage to that person shall be punished by a fine or a prison sentence for a term not exceeding six months.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever, with the intention to thwart the settlement of a creditor's claim in a coercive enforcement procedure, disposes of, destroys, damages or conceals parts of his property thus causing damage to the creditor.

(3) Where the offences set forth in paragraphs 1 and 2 of this Article are committed against private citizens, prosecution shall be instituted by a private action.

### **Concealment**

#### **Article 256**

(1) Whoever conceals, facilitates the disposal of, buys, accepts as security, or otherwise obtains property knowing that it was acquired through a criminal offence or does the same with the property obtained in a sale or exchange thereof, shall be punished by a fine or a prison sentence for a term not exceeding three years, provided that the penalty may not be higher than the penalty prescribed for the criminal offence through which that property was acquired.

(2) Whoever commits the offence set forth in paragraph 1 of this Article and who could have known or should have known that the property represents a benefit from criminal conduct shall be punished by a fine or a prison sentence for a term not exceeding one year.

(3) Where the perpetrator commits the criminal offences set forth in paragraph 1 of this Article on a regular basis, or where the offence was committed by several persons in an organised manner, or where the value of concealed articles exceeds thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

### **Appropriation, Concealment and Destruction of Archival Materials**

#### **Article 256a**

(1) Whoever appropriates, conceals, inflicts serious damage, destroys or otherwise makes unusable documentary material or archival materials or takes them to another state without a previous authorization of the competent authority or allows another person to do so shall be punished by a prison sentence for a term from three months to five years.

(2) Where the offence set forth in paragraph 1 of this Article is committed against documentary material or archival materials of major significance, the perpetrator shall be punished by a prison sentence for a term from one to ten years.

### **Prosecution in Cases when the Offender has a Close Relationship with the Injured Party**

#### **Article 257**

Where the criminal offences set forth in Articles 239, 240, 244, 248, 249, paragraphs 1 to 3, and 256 of this Code are committed against a spouse, a person with whom the offender lives with in a durable customary marriage, direct blood relative, brother or sister, adoptive parent or adopted child, or other persons with whom the offender lives in a joint household, prosecution shall be instituted by a private action.

## **TITLE TWENTY-THREE**

### **CRIMINAL OFFENCES AGAINST PAYMENT TRANSACTIONS AND COMMERCIAL ACTIVITY**

#### **Counterfeiting of Currency**

#### **Article 258**

(1) Whoever produces fake currency with the intention to release it into circulation as genuine or who alters genuine currency with the same intention shall be punished by a prison sentence for a term from two to twelve years.

(2) Whoever obtains, possesses, transmits, brings in or takes out fake currency with the intention to release it into circulation as genuine or who releases fake currency into circulation shall be punished by a prison sentence for a term from two to ten years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in producing, altering, releasing into circulation or obtaining fake currency in the amount exceeding fifteen thousand euro or an equivalent amount in a foreign currency, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

(4) Whoever receives fake currency as genuine and who, after learning it to be fake, releases it into circulation or who knows fake currency was produced, or that fake currency was released into circulation and fails to report it shall be punished by a fine or a prison sentence for a term not exceeding one year.

(5) Fake currency shall be confiscated.

(6) Fake currency, within the meaning of this criminal offence, shall also be understood to mean currency produced in the same manner and of the same material as genuine currency, in contravention to regulations governing production of currency.

### **Counterfeiting Securities**

#### **Article 259**

(1) Whoever produces fake securities or alters genuine securities with the intention to use them as genuine or give them to another for his use, or who uses such fake securities as genuine ones, or obtains them with that intention, shall be punished by a prison sentence for a term from one to five years.

(2) Where the aggregate value of counterfeit securities set out in paragraph 1 of this Article exceeds three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the aggregate value of counterfeit securities set out in paragraph 1 of this Article exceeds thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(4) Whoever receives fake securities as genuine and releases them into circulation after learning they are fake, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(5) Fake securities shall be confiscated.

### **Counterfeiting and Misuse of Credit and Debit Cards**

#### **Article 260**

(1) Whoever produces a fake payment card or who alters a genuine payment card with the intention to use it as genuine, or who procures, transfers to another for his use or uses such a fake payment card or another person's genuine payment card obtained without authorisation, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the perpetrator of the offence set forth in paragraph 1 of this Article obtained unlawful material benefit by using the card, he shall be punished by a prison sentence for a term from six months to five years.

(3) Where the perpetrator of the offence set forth in paragraph 1 of this Article obtained unlawful material benefit exceeding three thousand euro, he shall be punished by a prison sentence for a term from one to eight years.

(4) Where the perpetrator of the offence set forth in paragraph 1 of this Article obtained unlawful material benefit exceeding thirty thousand euro, he shall be punished by a prison sentence for a term from two to ten years.

### **Counterfeiting Tokens of Value**

#### **Article 261**

(1) Whoever produces fake tokens of value or alters genuine tokens of value with the intention to use them as genuine or give them to another for his use, or who uses such fake tokens of value as genuine ones, or obtains them with that intention, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the total value of tokens set out in paragraph 1 of this Article exceeds thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(3) Where the total value of tokens set out in paragraph 1 of this Article exceeds thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Whoever removes the mark by which tokens of value are invalidated or who otherwise tries to give these tokens the appearance of unused tokens in view of their re-use, or who re-uses already used tokens or sells them as if they were valid shall be punished by a fine or a prison sentence for a term not exceeding one year.

(5) Fake tokens of value shall be confiscated.

### **Manufacturing, Procuring and Supplying Others with Counterfeiting Instruments and Materials**

#### **Article 262**

(1) Whoever manufactures, procures, sells, keeps for his use or supplies another person for his use the instruments and material for producing counterfeit currency, payment cards, or fake tokens of value shall be punished by a prison sentence for a term from six months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever, in view of producing fake currency, produces, procures, sells, keeps, or supplies another person with holograms or other security features to protect against counterfeiting.

(3) Whoever manufactures, procures, keeps for his use or supplies another person for his use the instruments for producing fake tokens of value shall be punished by a fine or a prison sentence for a term not exceeding two years.

(4) The instruments set out in paragraphs 1 to 3 of this Article shall be confiscated.

### **Issuing Uncovered Checks and Non-cash Payment Instruments**

#### **Article 263**

(1) Whoever uses a credit card knowing that the coverage thereof will not be provided within the contractual time-limit, thereby obtaining for himself or for another an unlawful material benefit exceeding five hundred euro shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever issues or releases into circulation an uncovered cheque, bill of exchange, any security, or some other means of payment or means securing payment, thereby obtaining for himself or for another an unlawful material benefit exceeding five hundred euro.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article results in a material benefit exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in an unlawful material benefit exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

## **Evasion of Taxes and Contributions**

### **Article 264**

(1) Whoever, with the intention to personally evade or for another natural or legal person to evade, in full or in part, the payment of taxes, contributions or other statutory charges, furnishes false data on the lawful income, property or other facts relevant for the assessment of such obligations or whoever with the same intention, in case of compulsory tax returns, fails to report lawful income or property or other facts relevant for the assessment of such obligations or whoever with the same intention, otherwise conceals data in relation to the assessment of the foregoing liabilities where the amount of liability the payment of which is evaded exceeds one thousand euro shall be punished by a prison sentence for a term not exceeding three years and by a fine.

(2) Where the offence set forth in paragraph 1 of this Article is committed to the detriment of the financial interests of the European Union, the perpetrator shall be punished by the penalty prescribed for that offence.

(3) Where the amount of liability set out in paragraphs 1 and 2 of this Article the payment of which is evaded exceeds ten thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to six years and by a fine.

(4) Where the amount of liability set out in paragraphs 1 and 2 of this Article the payment of which is evaded exceeds one hundred thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years and by a fine.

## **Smuggling**

### **Article 265**

(1) Whoever engages in the transfer of goods across the customs boundary evading customs control measures or who by evading customs control measures transfers goods across the customs boundary armed, in a group or using force or threats shall be punished by a prison sentence for a term from six months to five years and by a fine.

(2) Whoever, avoiding customs control measures, transfers across the customs boundary a large quantity of weapons or ammunition or weapons the possession of which is prohibited to citizens or other goods the production or trade in which is restricted or prohibited shall be punished by a prison sentence for a term from one to eight years and by a fine.

(3) Whoever sells, distributes or conceals uncleared goods or organises a network of dealers or middlemen for distribution of such goods shall be punished by a prison sentence for a term from one to eight years and by a fine.

(4) The goods which are the subject of offences set out in paragraphs 1, 2 and 3 of this Article of this Article shall be confiscated.

(5) A means of transport whose secret or concealment compartments were used for the transport of the goods which are the subject of offences set forth in paragraph 1 of this Article or which was intended for commission of those offences may be confiscated if the owner or user of vehicle was aware, could have been aware or should have been aware of that, and if the value of the goods which are the subject of the offence exceeds one third of the value of the means of transport at the time of the commission of the offence.



## **Unauthorized Practice of Economic, Banking, Stock-Exchange or Insurance Activity**

### **Article 266**

(1) Whoever practices economic or another activity without registration or authorization or in violation of the terms under which the authorization was issued, or who registers a company or becomes registered for an economic activity as an entrepreneur in violation of the ban on the registration of a company or an entrepreneur, shall be punished by a prison sentence for a term from three months to five years and by a fine.

(2) Whoever practices banking, stock-exchange or insurance activity without an authorization or in violation of the terms under which the authorization was issued, shall be punished by a prison sentence for a term from three months to five years.

(3) The prescribed penalty for the offence set forth in paragraph 2 of this Article shall also be imposed on a responsible officer of a legal entity where the legal entity engages in unauthorised practice of any of the above activities, provided that the responsible officer was aware, could have been aware or ought to have been aware thereof.

## **Issuing Unbacked Securities**

### **Article 267**

(1) A responsible officer of a bank, business organisation or other entity engaged in commercial activity issuing securities who allows issuance of securities although he knew, could have known, or should have known that the issuer is unable to settle his liabilities arising from such issuance under the terms, within the time-limit, and in the manner laid down by law or the decision authorizing issuance shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) A public official who authorizes issuance of securities although he knew, could have known, or should have known that the issuer is unable to settle his liabilities arising from such issuance under the terms, within the time-limit, and in the manner laid down by law or the decision authorizing issuance shall be punished by a prison sentence for a term not exceeding one year.

(3) A responsible officer of a bank who grants a guarantee for a certain issue of securities even though he knew, could have known or should have known of the impossibility to perform a bank obligation taken on by the guarantee under the terms, within the time-limit, and in the manner laid down by law or guarantee shall be punished by a fine or a prison sentence of up to six months.

## **Money Laundering**

### **Article 268**

(1) Whoever converts or transfers money or other property knowing them to be derived from criminal activity, for the purpose of concealing or disguising the origin of money or other property or who acquires, possesses or uses money or other property knowing at the time of receipt that they are derived from criminal activity, or who conceals or disguises facts on the nature, source, place of deposit, movement, disposal or ownership of money or of other property knowing they are derived from criminal activity shall be punished by a prison sentence for a term from six months to five years.

(2) The penalty set out in paragraph 1 of this Article shall be imposed on the perpetrator of the offence set forth in paragraph 1 of this Article who is at the same time the perpetrator or the accomplice in the criminal offence resulting in acquisition of the money or property set out in paragraph 1 of this Article or on whomever assists a perpetrator in view of avoiding his accountability for the offence committed, or undertakes actions, with the same objective, to conceal the origin of money or property set out in paragraph 1 of this Article.

(3) Where the amount of money or value of the property set out in paragraphs 1 and 2 of this Article exceeds forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to ten years.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article is committed by several persons who associated for the purpose of committing such offences, they shall be punished by a prison sentence for a term from three to twelve years.

(5) Whoever commits the offence set forth in paragraphs 1 and 2 of this Article and could have known or should have known that the money or property are derived from criminal activity shall be punished by a prison sentence for a term not exceeding three years.

(6) The money and property set out in paragraphs 1, 2 and 3 of this Article shall be confiscated.

(7) Property, within the meaning of this Article, shall imply property rights of every kind, whether tangible or intangible assets, movable or immovable things, securities or other documents evidencing title to or interest in such assets.

### **Breach of Equality in Business Operations**

#### **Article 269**

(1) Whoever abuses his official position or authority in order to restrict the free or independent association of a business organisation or other entity engaged in commercial activity in the performance of their business activities, who denies or restricts their right to engage in a business activity in a particular territory, places them at a disadvantage with regard to operating terms and conditions or restricts their freedom of business activity shall be punished by a prison sentence for a term from three months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever abuses his social status or influence in view of committing the criminal offence set forth in paragraph 1 of this Article.

### **Abuse of Monopoly Power**

#### **Article 270**

A responsible officer in a business entity or another entity engaged in commercial activity who abuses monopoly or dominance of the market or who concludes a monopolistic agreement causing market disruptions or puts that entity into a privileged position vis-à-vis others, thus obtaining material benefit for that entity or for another entity, or causing damage to other entities engaged in commercial activity, consumers or service users shall be punished by a prison sentence for a term from three months to five years.

### **Unauthorized Use of a Trade Name**

#### **Article 271**

Whoever, with the intention to deceive buyers or service users, uses someone else's trade name, geographical indication of origin, trademark, proprietary mark, or special commodity mark, or enters particular features of these marks into his trade name, trademark, proprietary mark, or his special commodity mark, shall be punished by a fine or a prison sentence for a term not exceeding three years

### **Abuse of Office in Business Operations**

#### **Article 272**

(1) The responsible officer in a business organisation, other entity engaged in commercial activity or other legal entity who, by abusing his office or trust with respect to disposal of another person's property, exceeds the limits of his authorisation or fails to discharge his duties, thereby obtaining for himself or for

another unlawful material benefit or causing property damage to another, shall be punished by a prison sentence for a term from three months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever, with the intention to obtain for himself or for another person unlawful material benefit, misappropriates money, securities, or other movable articles entrusted to him in his official capacity in a business organisation, other entity engaged in commercial activity, or other legal entity.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article results in a material benefit exceeding forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

### **Causing Bankruptcy**

#### **Article 273**

(1) A responsible officer in a business organisation or other entity engaged in commercial activity who causes bankruptcy and thereby causes damage to another person by irrational spending of assets or their bargain selling, excessive borrowing, taking disproportional liabilities, recklessly concluding contracts with insolvent entities, omitting to collect claims in time, destroying or concealing property or by other acts which are not in compliance with assiduous business practices shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

### **Arranging a False Bankruptcy**

#### **Article 274**

(1) A responsible officer in a business organisation or other entity engaged in commercial activity who, with the intention to evade payment of liabilities by that entity, causes the bankruptcy of that entity via an ostensible or actual impairment of its assets by:

1) concealing the assets of the entity engaged in commercial activity, fictitiously selling them, selling them below their market value or ceding them free of charge, in whole or in part;

2) concluding fictitious contracts of debt or acknowledging fictitious claims;

3) concealing business books which have to be kept by the entity engaged in commercial activity under law, destroying or altering them to such an extent that they are not a proper representation of results of operating activities or of its assets and liabilities, or misrepresenting assets and liabilities by making false documents or otherwise to make the entity eligible for bankruptcy shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in grave consequences to the creditor, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

### **Damaging Creditors' Interests**

#### **Article 275**

(1) A responsible officer of a business entity or other entity engaged in commercial activity who, knowing that the entity has become insolvent, repays debt or otherwise places one creditor in a more favourable position thus causing significant damage to another creditor, shall be punished by a prison sentence for a term from three months to three years.

(2) The responsible officer set out in paragraph 1 of this Article or an entrepreneur who, knowing that the entity has become insolvent and with the intention to deceive

or damage a creditor's interest, acknowledges fictitious claims, concludes fictitious contracts or damages creditor's interest by another fraudulent act shall be punished by a prison sentence for a term from three months to five years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in damage to the creditor exceeding forty thousand euro or where this provoked forced settlement or bankruptcy proceedings to be instituted against the injured party, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Misuse of Authority in Business Operations**

#### **Article 276**

(1) A responsible officer of a business entity or other entity engaged in commercial activity who, with the intention to obtain unlawful material benefit for the legal entity with which he is employed, or for other legal person or other entity engaged in commercial activity:

1) creates or retains possession of illicit monetary, commodity or other value funds in the country or abroad;

2) by means of drawing up a false document, via appraisals or inventory-taking or by falsely representing or concealing facts, misrepresents the account balance or changes in assets, or results of operating activities, thus misleading managing bodies of a business organisation or other legal entity in their decision making concerning management affairs, or putting the business organisation or other legal entity in a more favourable position when getting funds or other facilities that they would not have been granted under applicable regulations;

3) uses funds managed by him contrary to their intended use;

4) otherwise grossly abuses his authority with respect to management, disposal of and use of property, shall be punished by a prison sentence for a term from three months to five years.

(2) Where the offence set forth in paragraph 1 of this Article results in a material benefit exceeding forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

### **Passive Bribery in Commercial Activities**

#### **Article 276a**

(1) A responsible officer or other person who works for or in a business organisation or other entity engaged in commercial activity who for himself or for another, directly or indirectly, solicits or receives a bribe or accepts the promise of a bribe in return for concluding a contract, or reaching a business agreement or providing a service or refraining from such acts to the detriment or in favour of the business organisation for which or in which he works or of in favour of another, shall be punished by a prison sentence for a term from one to eight years.

(2) The perpetrator of the offence set forth in paragraph 1 of this Article who, after concluding the contract or reaching a business agreement, or providing the service, or refraining from such acts, solicits or receives a bribe for himself or another or accepts the promise of a bribe, shall be punished by a prison sentence for a term not exceeding three years.

(3) The bribe accepted shall be confiscated.

### **Active Bribery in Commercial Activities**

#### **Article 276b**

(1) Whoever gives, offers or promises a bribe to a responsible officer or other person working for or in a business organisation or other entity engaged in commercial activity so as to conclude, for himself or for another person, a contract or

reach a business agreement or provide a service to the detriment or in favour of the business organisation for which or in which he works or in favour of another entity or who acts as an intermediary in such bribe giving, shall be punished by a prison sentence for a term from six months to five years.

(2) ) The perpetrator of the offence set forth in paragraph 1 of this Article who gave a bribe at the request of the responsible officer or of another person working for or in a business organisation or another entity engaged in commercial activity, where he reported the offence before he learned it had been detected, may be released from punishment.

(3) The bribe given shall be confiscated.

### **Damage to Business Reputation and Creditworthiness**

#### **Article 277**

(1) Whoever, with the intention to damage the business reputation or creditworthiness of another, disseminates false information about that person or falsely represents his business operations, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article resulted in grave consequences, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(3) Prosecution for offences set forth in paragraphs 1 and 2 of this Article shall be instituted by a private action.

### **False Balance Sheet**

#### **Article 278**

Whoever, for the purpose of obtaining some benefit for himself or another or causing damage to another, produces a fake balance sheet reporting a profit or loss in a business organisation or other entity engaged in commercial activity or reporting individual shares in the profit or loss of its respective members, shall be punished by a prison sentence for a term from three months to five years.

### **Abuse of Asset Appraisals**

#### **Article 279**

(1) A licensed appraiser who, in valuating assets of a business organisation or other entity engaged in commercial activity misuses his authority, thus obtaining for himself or another person some benefit or causing damage to another, shall be punished by a prison sentence for a term from three months to five years.

(2) Where the offence set forth in paragraph 1 of this Article results in material benefit or causes damage exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraph 1 of this Article results in material benefit or causes damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

### **Disclosing a Trade Secret**

#### **Article 280**

(1) Whoever unauthorisedly communicates, furnishes or otherwise makes accessible to another information which constitute a trade secret or who obtains such information with the intention to furnish them to an unauthorized person, shall be punished by a prison sentence for a term from three months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on an unauthorised person who uses information which constitute a trade secret obtained in the manner described in paragraph 1 of this Article.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed out of greed or with respect to strictly classified information or for the purpose of their publication or use abroad, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(4) Whoever commits the offence set forth in paragraphs 1 and 2 of this Article through negligence, shall be punished by a prison sentence for a term not exceeding three years.

(5) A trade secret shall be deemed to include data and documents classified as a trade secret under law, another regulation or decision of the competent authority issued on the basis of law, whose disclosure would or could cause detrimental consequences to the business organisation or other entity engaged in commercial activity.

### **Misuse of Insider Information**

#### **Article 281**

1) Whoever, with the intention to obtain material benefit for himself or another or cause damage to another, communicates or otherwise makes available insider information to an unauthorised person or who by using insider information buys or sells for himself or another, directly or indirectly, securities or other financial instruments to which insider information relate, or who recommends to another or instigates another to buy or sell securities or other financial instruments to which insider information relate, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on an unauthorised person for using the information obtained in the manner described in paragraph 1 of this Article.

(3) Where the offence set forth in paragraph 1 of this Article is committed by a person who is a member of the board of directors or supervisory authority of the issuing body or a person who has a share in the capital of the issuing body, such person shall be punished by a prison sentence for a term from six months to five years.

(4) Where the offence set forth in paragraphs 1, 2 and 3 of this Article results in a material benefit exceeding the amount of three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(5) Where the offence set forth in paragraphs 1, 2 and 3 of this Article results in a material benefit exceeding the amount of thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(6) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

### **Manipulation in Securities Markets or Other Financial Instruments Markets**

#### **Article 281a**

(1) Whoever, with the intention to obtain material benefit for himself or another or cause damage to another, acts contrary to the regulations governing the securities market, by taking any of the following actions:

1) effects a transaction or enters a trading order which provides or may provide false or misleading information with respect to the supply, demand or price of securities or other financial instruments, or by means of which the person or conspiring persons maintain the price of one or several securities or of other financial instruments at an unrealistic level;

2) when effecting a transaction or entering a trading order, retains, increases, decreases, or causes changes to the market price of securities or other financial instruments by means of purchase or sale or fictitious transaction which involves no change in the beneficial ownership of such security or other financial instrument;

3) disseminates or conveys, through the media, internet or otherwise, false or misleading information that may lead one astray with respect to the securities or other financial instruments, knowing that such information is false or misleading and that it may lead astray the party using such information, shall be punished by a prison sentence for a term from six months to five years and by a fine.

(2) Where the offence set forth in paragraph 1 of this Article results in a material benefit exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years and by a fine.

### **Preventing Examinations**

#### **Article 282**

Whoever prevents an examining authority from examining business books or other documents or who prevents an inspection or other authority from examining objects, premises or other facilities shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Unauthorized Production**

#### **Article 283**

(1) Whoever unauthorisedly produces or processes the goods whose production or processing requires an authorization to be granted by the competent authority shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Whoever produces or processes the goods whose production or processing is prohibited shall be punished by a prison sentence for a term not exceeding three years.

(3) The goods and the instruments of production or processing shall be confiscated.

### **Unlawful Trade**

#### **Article 284**

(1) Whoever without authority to trade, acquires for sale goods or other consumer goods the value of which exceeds three thousand euro, or who unauthorisedly engages to a greater degree in trade, intermediation in trade or representation of organisations in domestic or foreign trade in goods and services shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Whoever engages in the sale of goods whose unlawful production was arranged by him shall be punished by a prison sentence for a term from three months to three years.

(3) The penalty set out in paragraph 2 of this Article shall also be imposed on whomever unlawfully sells, buys or exchanges goods or objects the trade in which is prohibited or limited.

(4) Where the perpetrator of the offence set forth in paragraphs 1 to 3 of this Article created a network of dealers or middlemen or where he obtained material benefit exceeding three thousand euro, he shall be punished by a prison sentence for a term from six months to five years.

(5) Where the perpetrator of the offence set forth in paragraphs 1 and 3 of this Article obtained a material benefit exceeding the amount of thirty thousand euro, he shall be punished by a prison sentence for a term from one to six years.

(6) The goods and the objects of unlawful trade shall be confiscated.

### **Misleading Customers**

#### **Article 285**

Whoever, with the intention to mislead customers, places on the market products whose label includes data which do not match the contents, type, origin or quality of

the product or who places on the market products which in terms of their quantity and quality do not match what is normally expected of such products or who places on the market products without a label specifying the contents, type, origin or quality of the product where such label is required or who uses manifestly fraudulent advertisement when placing products on the market shall be punished by a prison sentence for a term not exceeding three years and by a fine.

### **Counterfeiting Product Markings**

#### **Article 286**

(1) Whoever, with the intention to use them as genuine, manufactures fake seals, trademarks, marks or other markings used for labelling domestic or foreign merchandise by which gold or other precious metals, wood, cattle and other goods are stamped or who, with the same intention, alters such markings or uses such fake or altered markings as genuine ones shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Fake markings shall be confiscated and destroyed.

### **TITLE TWENTY-FOUR**

### **CRIMINAL OFFENCES AGAINST HUMAN HEALTH**

#### **Non-compliance with Health Regulations Aimed at Suppressing Dangerous Communicable Diseases**

##### **Article 287**

Whoever does not comply with regulations, decisions, orders or instructions ordering measures for the suppression or prevention of a dangerous communicable disease shall be punished by a fine or a prison sentence for a term not exceeding one year.

#### **Spreading Dangerous Communicable Diseases**

##### **Article 288**

Whoever does not comply with regulations, decisions, orders or instructions for the suppression or prevention of a dangerous communicable disease due to which the disease concerned is spread shall be punished by a prison sentence for a term not exceeding three years.

#### **HIV Transmission**

##### **Article 289**

**-Deleted-**

#### **Medical Malpractice**

##### **Article 290**

(1) A doctor who in providing health care applies manifestly inadequate medical product or manifestly inadequate mode of treatment or who fails to apply adequate hygienic measures or generally acts in a manifestly careless manner, thereby causing a deterioration of the health of another, shall be punished by a prison sentence for a term from three months to three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on other health care providers who in providing health care or conducting other health related activities acts in a manifestly careless manner, causing a deterioration of the health of another.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.



## **Unlawful Medical Experimentation and Medicine Testing**

### **Article 291**

(1) Whoever, in violation of regulations, performs medical or other similar experiments on humans shall be punished by a prison sentence for a term from three months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whoever makes interventions aimed at the creation of a human being that is genetically identical to another human being (cloning) or who conducts experiments to that end.

(3) Whoever performs clinical trials of a medicine in violation of regulations shall be punished by a prison sentence for a term from three months to three years.

## **Failure to Provide Medical Assistance**

### **Article 292**

(1) A doctor who contrary to his duty refuses to provide medical assistance to a person who is in need of such assistance, where that person's life is in imminent peril or who is exposed to the risk of serious bodily injury or serious deterioration of his health, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Where the offence set forth in paragraph 1 of this Article results in a serious bodily injury or serious deterioration of health of the person who was denied medical assistance, the perpetrator shall be punished by a prison sentence for a term from three months to four years.

(3) Where the offence set forth in paragraph 1 of this Article results in the death of the person who was denied medical assistance, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

## **Quackery**

### **Article 293**

Whoever engages in medical treatment or provision of other medical services without adequate professional qualifications shall be punished by a fine or a prison sentence for a term not exceeding two years.

## **Illegal Removal of Human Organs or Body Parts**

### **Article 293a**

(1) Whoever, without a written consent, or agreement within the meaning of regulations governing transplantation of organs, removes an organ or a body part of a living or a deceased person, shall be punished by a prison sentence for a term from one to eight years.

(2) Whoever removes an organ or a body part of a living or deceased person outside of the framework of the national transplantation system or commits the removal violating the basic principles and rules laid down in regulations governing transplantation of organs, shall be punished by a prison sentence for a term from six months to five years.

(3) Whoever, in exchange for a removed organ or body part, offers or gives material or any other benefit shall be punished by a prison sentence for a term from six months to five years.

(4) Where an offence set forth in paragraphs 1 and 2 of this Article results in the death or serious impairment of health or where the offence was committed by several persons in an organised manner or through abuse of office or against a minor, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

## **Keeping, Transporting, Importing and Exporting Human Organs or Body Parts Acquired through a Criminal Offence**

### **Article 293b**

(1) Whoever prepares, keeps or stores human organs or body parts acquired through a criminal offence set out in Article 293a of this Code, shall be punished by a prison sentence for a term from one to eight years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever transports, exchanges, receives, imports or exports human organs or body parts acquired through a criminal offence set out in Article 293a of this Code.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed by several persons in an organised manner or through abuse of office, the perpetrator shall be punished by a prison sentence for a term of two to twelve years.

## **Illegal Transplantation of Body Parts**

### **Article 294**

(1) A doctor who, prior to performing a body part transplantation, fails to obtain a written consent from either the recipient or his parent, adoptive parent or guardian, where the recipient is a minor or a mentally incapacitated person, shall be punished by a prison sentence for a term from three months to three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a responsible officer of a health care institution which is conducting removal or transplantation of human body parts or examining transplant compatibility, where the institution does not fulfil the prescribed requirements for such interventions.

## **Unlawful Removal of Body Parts for Transplantation**

### **Article 295**

(1) A doctor who removes a body part for transplantation from a live, adult, mentally healthy person who enjoys legal capacity, without previously obtaining a written consent of that person and who removes a body part of a live under-age person, who is mentally incapacitated or does not enjoy legal capacity, without previously obtaining a written consent of that person's parent, adoptive parent or guardian, shall be punished by a prison sentence for a term from three months to four years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a doctor who removes for transplantation a body part from a deceased person whose death was not established in the manner and within a procedure prescribed by regulations governing transplantation of human body parts.

(3) A doctor who for the purpose of transplantation removes a body part from a deceased person who while still living expressly objected to organ removal in writing or who removes a body part from a deceased minor or mentally incapacitated person, without having obtained prior consent in writing from his parent, adoptive parent or guardian, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(4) Whoever removes or transplants a human organ, tissue, cell, embryo, or foetus although he knew, could have known, or should have known that the donor received financial compensation or other benefit in return, shall be punished by a prison sentence for a term not exceeding three years.

## **Trade in Human Body Parts**

### **Article 295a**

(1) Whoever by means of force or threats, deceit, fraud, abduction, abuse of office or misuse of a position of dependancy, obtains, possesses, transports, transfers, stores or receives a human organ, tissue, cell, embryo, foetus, or body of a

deceased person for removal of body parts, shall be punished by a prison sentence for a term from one to eight years.

(2) Whoever unlawfully procures a human organ, tissue, cell, embryo, foetus or body of a deceased person, shall be punished by a prison sentence for a term from six months to five years.

(3) The penalty set out in paragraph 2 of this Article shall also be imposed on a person who, with the intention to obtain material benefit, instigates or assists another to give his own organ, tissue, cell, embryo, or foetus in exchange for a financial compensation or other benefit.

### **Advertising Trade in Human Body Parts**

#### **Article 295b**

Whoever advertises the purchase or sale of a human organ, tissue, cell, embryo, foetus or body of a deceased person, shall be punished by a prison sentence for a term not exceeding three years.

### **Acting Negligently when Preparing and Dispensing Medications**

#### **Article 296**

(1) A person in charge of dispensing medications to be used in health care who dispenses another medication instead of the one prescribed or required, where such replacement is not allowed, or who does not prepare a medication with the prescribed proportions or in the prescribed quantity or who acts with manifest negligence when dispensing medications, thus causing a deterioration of the health of another, shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Unauthorized Trade in Hormonal Substances**

#### **Article 296a**

Whoever, in violation of regulations, releases into circulation any medicines or substances containing hormones or other growth stimulating substances, shall be punished by a fine or a prison sentence for a term not exceeding three years.

### **Producing Harmful Products and Placing Them on the Market**

#### **Article 297**

(1) Whoever produces for sale, sells or places on the market foodstuffs, meals or beverages or other products harmful to human health, shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever places products set out in paragraph 1 of this Article on the market without having them inspected by an authorized person, where such inspection is required under regulations, shall be punished by a prison sentence for a term not exceeding three years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article was committed through negligence the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

(4) The items set forth in paragraphs 1 and 2 of this Article shall be confiscated.

### **Negligent Inspection of Foodstuffs**

#### **Article 298**

(1) An authorized person who unconscientiously performs inspection of livestock for slaughter, meat intended for human consumption and other foodstuffs or who contrary to regulations, fails to inspect them, thereby enabling the placing of meat and other foodstuffs harmful to human health on the market, shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Polluting Drinking Water and Foodstuffs**

#### **Article 299**

(1) Whoever pollutes drinking water used by humans or foodstuffs by a harmful substance, shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Unauthorized Production, Possession and Distribution of Narcotic Drugs**

#### **Article 300**

(1) Whoever unlawfully produces, processes, sells, or offers for sale, or who for the purpose of selling buys, possesses, or transfers, or acts as an intermediary in the selling or buying, or otherwise unlawfully releases into circulation substances proclaimed to be narcotic drugs or plants containing such substances, shall be punished by a prison sentence for a term from two to ten years.

(2) Whoever brings into Montenegro substances proclaimed to be narcotic drugs or plants containing such substances with the intention to commit the offences set forth in paragraph 1 of this Article, shall be punished by a prison sentence for a term from two to twelve years.

(3) Where the perpetrator of the offence set forth in paragraphs 1 and 2 of this Article organized a network of dealers and middlemen, he shall be punished by a prison sentence for a term from three to fifteen years.

(4) The penalty set out in paragraph 3 of this Article shall also be imposed on whomever sells, offers for sale or gives narcotic drugs free of charge for further release into circulation to a minor, mentally ill person, person suffering from a temporary mental alienation, person with a severe mental impairment or person undergoing drug addiction treatment, or who releases into circulation narcotic drug mixed with a substance which may lead to serious impairment of health, or who commits the offence set forth in paragraph 1 of this Article in an educational institution or in its immediate vicinity, or in an institution for criminal sanctions enforcement, in a public facility, or at a public event, or where the offence set forth in paragraphs 1 and 2 of this Article was committed by a public official, a physician, social worker, priest, teacher or preschool teacher by virtue of their position or on who exploits a minor for the commission of that offence.

(5) The perpetrator of the offence set forth in paragraphs 1 to 4 of this Article who reveals the name of his drug supplier may be released from punishment.

(6) Whoever unlawfully makes, acquires, possesses, transports or gives for use equipment, material or substances knowing they are intended for the production of narcotic drugs, shall be punished by a prison sentence for a term from six months to five years.

(7) Narcotic drugs and the means used for their production shall be confiscated and destroyed.

## **Facilitating the Use of Drugs**

### **Article 301**

(1) Whoever instigates another person to use narcotic drugs or who gives narcotic drugs to another for his use or that of another person, or who places premises at the disposal of another person for drug use, or otherwise facilitates another person's use of narcotic drugs, shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article is committed against a minor, mentally ill person, person suffering from a temporary mental alienation, person with a severe mental impairment or a person undergoing drug addiction treatment or against a number of persons, or who commits such an offence in an educational institution or in its immediate vicinity, or in an institution for criminal sanctions enforcement or in a public facility or at a public event, or where the offence in question is committed by a public official, physician, social worker, priest, teacher or preschool teacher by virtue of their position, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(3) Narcotic drugs shall be confiscated and destroyed.

## **Serious Offences against Human Health**

### **Article 302**

(1) Where an offence set forth in Articles 287 and 290, paragraphs 1 and 2, 291, 293, 296, paragraph 1, 297 paragraphs 1 and 2, 298 paragraph 1 and 299, paragraph 1 of this Code resulted in a serious bodily injury or severe damage to health of a person, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(2) Where an offence set forth in Articles 287 and 290, paragraphs 1 and 2, 291, 293, 296, paragraph 1, 297 paragraphs 1 and 2, 298, paragraph 1 and 299, paragraph 1 of this Code resulted in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(3) Where an offence set forth in Articles 290, paragraph 3, 296, paragraph 2, 297, paragraph 3, 298, paragraph 2 and 299, paragraph 2 of this Code resulted in a severe bodily injury or grave damage to health of a person, the perpetrator shall be punished by a prison sentence for a term not exceeding four years.

(4) Where an offence set forth in Articles 290, paragraph 3, 296, paragraph 2, 297, paragraph 3, 298, paragraph 2 and 299, paragraph 2 of this Code resulted in the death of a person, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

## **TITLE TWENTY-FIVE**

### **CRIMINAL OFFENCES AGAINST THE ENVIRONMENT AND SPATIAL DEVELOPMENT**

#### **Environmental Pollution**

### **Article 303**

(1) Whoever, in violation of regulations governing protection, preservation and improvement of the environment, discharges, introduces or disposes of a specific quantity of a substance or ionising radiation into air, water, or soil, thus endangering human life, body or health, or causing risk of a substantial damage to air, water or soil quality, or to animals or plants shall be punished by prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

(3) Where the offence set forth in paragraph 1 of this Article caused substantial damage to the air, water or land quality or destruction or substantial damage to animals or plants, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraph 3 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(5) Where the offence set forth in paragraph 1 of this Article resulted in a serious bodily injury or serious impairment of health of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(6) Where the offence set forth in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from three to twelve years.

(7) Where a suspended sentence is imposed for offences set forth in paragraphs 1 to 4 of this Article, the court may order the perpetrator to take, within a time-limit set, some measures prescribed for the protection, preservation and improvement of the environment.

### **Environmental Pollution from Waste Disposal**

#### **Article 303a**

(1) Whoever collects, transports, recovers, disposes, or removes waste in a way which endangers human life, body or health, or causes risk of a substantial damage to air, water or soil quality, or to animals or plants, shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever commits the offence set forth in paragraph 1 of this Article while supervising the activities of collection, transport, recovery, disposal, or removal of waste, or while performing after-care of disposal sites, including action taken as a dealer or a broker, or organising recovery or removal of waste on behalf of another person, shall be punished by a prison sentence for a term from three months to three years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article caused substantial damage to air, water or soil quality or destruction or substantial damage to animals or plants, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(5) Where the offence set forth in paragraph 4 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(6) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in a serious bodily injury or serious impairment of health of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(7) Where the offence set forth in paragraphs 1 and 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from three to twelve years.

### **Ozone Layer Depletion**

#### **Article 303b**

Whoever produces, or contrary to regulations, imports, exports, markets or uses ozone depleting substances shall be punished by a prison sentence for a term not exceeding three years.

### **Failing to Take Environmental Protection Measures**

#### **Article 304**

(1) Where an officer responsible for taking environmental protection, preservation and improvement measures fails to take the prescribed environmental protection measures, he shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding six months.

(3) Where the offence set forth in paragraph 1 of this Article caused substantial damage to air, water or soil quality or destruction or substantial damage to animals or plants, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(4) Where the offence set forth in paragraph 3 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

(5) Where a suspended sentence is imposed for offences set forth in paragraphs 1 to 4 of this Article, the court may order the perpetrator to take, within a time-limit set, some measures prescribed for the protection, preservation and improvement of the environment.

### **Unlawful Construction, Commissioning and Operation of Environment Polluting Facilities and Installations**

#### **Article 305**

(1) A public official or a responsible officer who, contrary to regulations governing the protection, preservation and improvement of the environment, allows construction, commissioning, use or operation of facilities and installations in which a dangerous activity is carried out or in which dangerous materials or preparations are stored or used, thus endangering life, body or health of people outside of such facility or installation, or risk of substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants, shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article caused substantial damage to air, water or soil quality or destruction or substantial damage to animals or plants, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraph 1 of this Article resulted in a serious bodily injury or serious impairment of health of one or more persons, the perpetrator shall be punished by a prison sentence for a term from one to ten years.

(4) Where the offence set forth in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(5) Where a suspended sentence is imposed for offences set forth in paragraphs 1 and 2 of this Article, the court may order the perpetrator to take, within a time-limit set, some measures prescribed for the protection, preservation and improvement of the environment.

### **Damaging Environmental Protection Facilities and Devices**

#### **Article 306**

(1) Whoever damages, destroys, removes or otherwise renders inoperative environmental protection facilities or devices shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

(3) Where the offence set forth in paragraph 1 of this Article caused serious harm to the air, water or land quality or destruction or serious harm to the animal and plant life, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(4) Where the offence set forth in paragraph 3 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

(5) Where a suspended sentence is imposed for offences set forth in paragraphs 1 to 4 of this Article, the court may order the perpetrator to take, within a time-limit set, some measures prescribed for the protection, preservation and improvement of the environment.

### **Damage to the Natural Environment**

#### **Article 307**

(1) Whoever, in violation of regulations, causes large-scale damage to the natural environment or damage spread over a wider area through his use of natural resources, facilities construction, execution or works or otherwise, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

(3) Where the offence set forth in paragraph 1 of this Article resulted in a large-scale destruction or damage to animals or plants or in environmental pollution to such an extent that its removal will require a longer period of time and major expenses, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraph 2 of this Article resulted in a large-scale destruction or damage to animals or plants or in environmental pollution to such an extent that its removal will require a longer period of time and major expenses, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(5) Where a suspended sentence is imposed for offences set forth in paragraphs 1 to 4 of this Article, the court may order the perpetrator to take, within a time-limit set, some measures prescribed for the protection, preservation and improvement of the environment.

### **Abuse of Genetically Modified Organisms**

#### **Article 307a**

(1) Whoever in violation of regulations produces for sale, sells or places on the market products that contain, consist of or were obtained from genetically modified organisms and thereby endangers the environment, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever fails to destroy the waste that contains, consists of or is derived from genetically modified organisms in such a way that the genetically modified organism is no longer able to reproduce or transfer genetic material to other organisms shall be punished by a fine or a prison sentence for a term not exceeding one year.



## **Destruction of Plants**

### **Article 308**

(1) Whoever, in violation of regulations, destroys or damages plants to a larger extent or in a wider area shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed against specially protected species of plants, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding six months.

(4) Where the offence set forth in paragraph 2 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

(5) Whoever unauthorisedly possesses plants that belong to a specially protected species or takes samples of such species shall be punished by a fine or a prison sentence for a term not exceeding one year.

## **Killing and Torturing Animals and Destroying Their Habitat**

### **Article 309**

(1) Whoever, in violation of regulations, kills, hurts or tortures an animal, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever kills or hurts animals that belong to specially protected animal species shall be punished by a prison sentence for a term from six months to five years.

(3) The penalty set out in paragraph 2 of this Article shall also be imposed on a person who seriously damages or destroys an animal habitat within the protected area.

(4) Whoever unauthorisedly possesses animals that belong to a specially protected animal species or takes samples of such species, shall be punished by a fine or a prison sentence for a term not exceeding one year.

## **Destroying and Damaging Protected Natural Assets**

### **Article 310**

(1) Whoever damages or destroys a protected natural asset shall be punished by a prison sentence for a term from three months to five years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding six months.

## **Stealing a Protected Natural Asset**

### **Article 311**

(1) Whoever commits theft (Article 239) of a protected natural asset shall be punished by a prison sentence for a term from one to six years.

(2) Where the protected natural asset was taken away by theft and use of force to retain stolen goods or by robbery or where the value of the stolen protected natural asset exceeds the amount of thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

(3) Whoever, in doing construction, mining, water management, agricultural or other works, misappropriates a natural asset which has characteristics on account of which it may be declared a protected natural asset shall be punished in accordance with the provisions of paragraphs 1 and 2 of this Article.

## **Taking Protected Natural Assets or Specially Protected Plant and Animal Species in and out of the Country, and Trading in Them**

### **Article 312**

(1) Whoever, in violation of regulations, exports, or takes out of, or imports, or takes into Montenegro a protected natural asset or a specially protected plant or animal species, shall be punished by a prison sentence for a term from three months to three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever engages in unauthorised trade in specially protected plant and animal species, or parts or products thereof.

(3) An attempted offence set forth in paragraphs 1 and 2 shall be subject to punishment.

## **Taking Hazardous Substances in and out of the Country**

### **Article 313**

(1) Whoever in violation of regulations exports or takes abroad, or imports, or takes into Montenegro nuclear or radioactive material or other hazardous substance or hazardous waste, or whoever transports such substances across the territory of Montenegro, shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever allows or enables another, by abusing his office or authority, to export or take abroad or import or take into Montenegro a substance, material, or waste set out in paragraph 1 of this Article, shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article caused serious harm to the air, water or land quality or destruction or serious harm to the animal and plant life, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in a serious bodily injury or serious impairment of health of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(5) Where the offence set forth in paragraphs 1 and 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from three to twelve years.

(6) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

## **Unlawful Handling of Hazardous Materials**

### **Article 314**

(1) Whoever, in violation of regulations, utilises, produces, processes, keeps, disposes, collects, stores, procures, uses, transports, gives to another or dispatches nuclear or radioactive materials or any other hazardous materials or hazardous waste, shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever abuses his office or authority to allow or enable the use, production, processing, keeping, disposal, collection, storage or dispatch of substances, materials or waste set out in paragraph 1 of this Article shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article caused serious harm to the air, water or land quality or destruction or serious harm to the animal and plant life, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in a serious bodily injury or serious impairment of health of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(5) Where the offence set forth in paragraphs 1 and 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from three to twelve years.

(6) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

(7) Where a suspended sentence is imposed for offences set forth in paragraphs 1 to 4 of this Article, the court may order the perpetrator to take, within a time-limit set, some measures prescribed for protection against ionising radiation or other prescribed measures of protection.

### **Unlawful Construction of Nuclear Plants**

#### **Article 315**

Whoever, in violation of regulations, allows or starts construction of a nuclear power plant, nuclear fuel manufacturing plant or a plant for reprocessing of spent nuclear fuels shall be punished by a prison sentence for a term from six months to five years.

### **Failing to Enforce a Decision Ordering Environmental Protection Measures**

#### **Article 316**

(1) A public official or a responsible officer who fails to enforce the decision of the competent authority ordering environmental protection measures shall be punished by a prison sentence for a term not exceeding three years.

(2) Where a suspended sentence is imposed for the offence set forth in paragraph 1 of this Article, the court may order the perpetrator to take within a specified time period the measures set by the competent authority.

### **Violation of the Right to be Informed of State of the Environment**

#### **Article 317**

(1) Whoever, in violation of regulations, fails to provide data or provides untrue data on the state of the environment and phenomena which are necessary to assess environmental hazards and for taking measures for the protection of life and health of people shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever makes public untrue data on state of the environment and thereby causes panic or serious disturbance to the community shall be subject to punishment set out in paragraph 1 of this Article.

### **Transmission of Infectious Animal and Plant Diseases**

#### **Article 318**

(1) Whoever during an epidemics of a livestock disease that may endanger cattle breeding fails to act upon the regulations, decisions or orders prescribing disease suppression and prevention measures, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever fails, while danger of diseases and pests which can endanger animals or plants exists, to comply with the regulations, decisions and orders prescribing disease and pests suppression and prevention measures.

(3) Where an offence set forth in paragraphs 1 and 2 of this Article results in death of animals, destruction of plants or another major damage exceeding three thousand

euro, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

(4) Where the offence set forth in paragraphs 1 to 3 of this Article is committed through negligence the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

(5) Whoever, in violation of regulations, conceals the existence of an infectious disease among animals or fails to report to the public veterinary service, a veterinarian in private practice or a body competent for veterinary affairs the presence of signs indicating the existence of such disease, due to which the infectious disease spreads or animals die or some other major harm is caused the amount of which exceeds three thousand euro, shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Veterinary Malpractice**

#### **Article 319**

(1) A veterinary or a certified veterinary technician who in providing veterinary assistance prescribes or applies an obviously inadequate product or obviously inappropriate treatment, or otherwise acts carelessly or negligently when treating animals, thereby causing animals to die or other major damage exceeding three thousand euro shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding six months.

### **Unlicensed Practice of Veterinary Medicine**

#### **Article 320**

Whoever engages in medical treatment of animals or provision of other veterinary services without adequate professional qualifications shall be punished by a fine or a prison sentence for a term not exceeding six months.

### **Producing Harmful Products for the Treatment of Animals**

#### **Article 321**

(1) Whoever produces for sale or distributes products for the treatment or for prevention of infection in animals which are dangerous to their life or health, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article results in deaths of animals or another major damage exceeding three thousand euro, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding two years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term up to six months.

### **Pollution of Livestock Fodder and Water**

#### **Article 322**

(1) Whoever pollutes with a harmful substance livestock fodder or water and thereby brings into danger the life and health of animals, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever pollutes with a harmful substance water in a fish-pond, lake, river, channel or sea or who endangers fish or other aquatic animals by fish stocking from contaminated waters.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article results in death of animals or another major damage exceeding three thousand euro, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding two years.

(4) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding six months.

### **Devastation of Forests**

#### **Article 323**

(1) Whoever, in violation of regulations or orders of competent authorities, cuts or clears forests, or who damages trees or otherwise devastates forests or cuts down one or more trees in a park, row of trees or in some other place where tree cutting is prohibited, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever commits the offence set forth in paragraph 1 of this Article in a protection forest, national park or some other special purpose forest shall be punished by a prison sentence for a term from three months to three years.

### **Timber Theft**

#### **Article 324**

(1) Whoever, with the intention to steal, cuts one or more trees in a forest, park or a row of trees, where the volume of trees cut exceeds one cubic meter, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed with the intention to sell the felled trees, or if the volume of felled trees exceeds five cubic meters, or if the offence is committed in a protection forest, national park or other special purpose forest, the perpetrator shall be punished by a prison sentence for a term from three months to three years and by a fine.

(3) An attempted offence set forth in paragraphs 1 and 2 of this Article shall be subject to punishment.

### **Unlawful Hunting**

#### **Article 325**

(1) Whoever hunts game in closed season or in a territory where hunting is forbidden shall be punished by a fine or a prison sentence for a term not exceeding six months.

(2) Whoever unauthorisedly hunts in a hunting ground of another person and kills or wounds game or catches it alive, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(3) Where the offence set forth in paragraph 2 of this Article is committed against big game, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding two years.

(4) Whoever hunts game the hunting of which is forbidden or who hunts a particular type of game without a special permit which is required for the hunting thereof, or who hunts in a way or with means which cause mass extermination of game, shall be punished by a prison sentence for a term not exceeding three years.

(5) The game hunted and means used for hunting shall be confiscated.

### **Illegal Fishing**

#### **Article 326**

(1) Whoever catches fish or other aquatic animals in closed season or in waters in which fishing is forbidden, shall be punished by a fine or a prison sentence for a term not exceeding six months.

(2) Whoever catches fish or other aquatic animals with explosives, electric current, poison, stunning devices or in a way harmful to the breeding of such animals or in a manner which results in the mass extermination of such animals, shall be punished by a prison sentence for a term not exceeding three years.

(3) The penalty set out in paragraph 2 of this Article shall also be imposed on whomever catches fish or other aquatic animals of higher biological value or in a larger quantity, or who destroys a larger quantity of fish or other aquatic animals while fishing.

(4) The catch and instruments for fishing shall be confiscated.

### **Illegal Construction**

#### **Article 326a**

Whoever, in violation of regulations governing spatial planning and construction of structures, begins to construct a structure without submitting the notification and documents for a structure's building or constructs a structure contrary to the revised main design or a decision of the competent authority banning construction, shall be punished by a prison sentence for a term from six months to five years.

### **Illegal construction of complex engineering structures**

#### **Article 326b**

Whoever, in violation of regulations governing spatial planning and construction of structures, begins to construct a complex engineering structure without having acquired building permit or constructs a structure contrary to the building permit and revised main design or a decision of the competent authority banning construction, shall be punished by a prison sentence for a term from one to eight years.

### **Unlawful Connection of Building Site to Infrastructure**

#### **Article 326c**

Whoever, in violation of regulations governing spatial planning and construction of structures connects or allows connection to infrastructure of the building site, structure under construction or a building structure without submitting the notification and documents for a structure's building i.e. a building permit and documentation for construction of complex engineering structure, shall be punished by a prison sentence for a term from three months to three years.

## **TITLE TWENTY-SIX**

### **CRIMINAL OFFENCES AGAINST THE GENERAL SAFETY OF PERSONS OR PROPERTY**

#### **Causing General Danger**

##### **Article 327**

(1) Whoever causes danger to the life or limb of persons or property the value of which exceeds twenty thousand euro through causing fire, flood, explosion, by poison or poisonous gas, radioactive or other ionising radiation, electrical power, motor power or any other generally dangerous act or generally dangerous means, shall be punished by a prison sentence for a term from six months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a public official or a responsible officer who fails to install the devices prescribed for

protection against fires, floods, explosions, poisons or poisonous gases, radioactive or other ionising radiation, electric power or other hazardous agents, or fails to keep these devices in proper working condition, or in case of need, fails to use the equipment, or does not observe regulations or technical rules on safety measures at all, thereby causing danger to life or limb of persons or property the value of which exceeds twenty thousand euro.

(3) Where the offences set forth in paragraphs 1 and 2 of this Article are committed in a place where people have congregated in large numbers, the perpetrator shall be punished by a prison sentence for a term from one to six years.

(4) Where the offence set forth in paragraphs 1, 2 and 3 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

### **Destroying and Damaging Public Infrastructure**

#### **Article 328**

(1) Whoever destroys, damages, alters or makes unusable or removes public infrastructure devices for water supply, heating, gas, electrical or other energy or telecommunications system devices or another public device or who obstructs their use, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in a major disruption of their use, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(3) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding six months.

(4) Where the offence set forth in paragraph 2 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding two years.

### **Causing Danger by Failing to Ensure Workplace Safety Measures**

#### **Article 329**

(1) Whoever damages or removes safety equipment in mines, factories, workshops, at building sites or in some other place of work, and thereby causes danger to life or limb of persons or to property the value of which exceeds twenty thousand euro, shall be punished by a prison sentence for a term from six months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a responsible officer in a mine, factory, workshop, at building site or in some other place of work who fails to install safety devices, or fails to keep these devices in proper working condition, or in case of need, fails to use the equipment, or does not observe regulations or technical rules on workplace safety measures at all, thereby causing danger to life or limb of persons or property the value of which exceeds twenty thousand euro.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

(4) Where the court imposes a suspended sentence for the offence set forth in paragraph 2 of this Article, the court may impose an obligation on the perpetrator to ensure the installation, maintenance or use of safety devices within a specified time limit.

### **Irregular and Improper Execution of Construction Works**

### **Article 330**

(1) An officer responsible for designing, revision of technical documentation, execution and engineering supervision of construction works, who in the execution of such works violates regulations governing spatial planning and construction of structures or generally accepted engineering rules or causes danger to life and limb of persons or property the value of which exceeds twenty thousand euro, shall be punished by a prison sentence for a term from six months to five years

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding three years.

### **Damaging Dams and Water Supply Structures**

#### **Article 331**

(1) Whoever damages, destroys or makes unusable a dam or another water supply structure or device for the protection against natural disasters, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed against a facility or a device of major significance, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraph 2 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term of up to three years.

### **Destroying, Damaging or Removing Danger Signs**

#### **Article 332**

(1) Whoever destroys, damages or removes a sign warning of any danger shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever destroys, damages or removes a traffic device, means, sign or signalling device or a safety barrier or protective guardrail providing for traffic safety.

### **Abuse of Telecommunication Signals**

#### **Article 333**

(1) Whoever abuses or unnecessarily transmits either an internationally agreed distress signal or a signal warning impending danger, or who deceives others by using a telecommunication clear of all danger signal, or who abuses an internationally agreed communication signal, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in danger to life of people or a property the value of which exceeds twenty thousand euro, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

### **Failure to Eliminate Danger**

#### **Article 334**

(1) Whoever fails to report to the competent authority or other competent entity a fire, flood, explosion, traffic accident or some other danger to life or limb of persons or property the value of which exceeds twenty thousand euro, or fails to take measures for removing that danger, even though he could have done it without any danger to himself or another, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever prevents another person from taking measures for eliminating fires, floods, explosions, traffic accidents or other dangers to life or limb of persons or



property the value of which exceeds twenty thousand euro, shall be punished by a prison sentence for a term not exceeding three years.

### **Unlawful Handling of Explosive and Flammable Substances**

#### **Article 335**

(1) Whoever, in violation of regulations, stores, possesses, transports or delivers for transport by a public conveyance explosive or flammable substance or takes such substance on board of a public conveyance himself, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever unlawfully brings into a room or another facility where people congregate in large numbers an explosive or flammable substance or who brings such a substance into a place where people have congregated in large numbers or where such a congregation is to take place.

(3) Whoever takes or tries to take into a cave containing methane, other flammable gas or dangerous coal dust or into a building located in an oil or gas field a flammable substance or other articles whose bringing into such a cave or building is prohibited, shall be punished by a prison sentence for a term from three months to three years.

(4) The penalty set out in paragraph 3 of this Article shall also be imposed on whomever fails to adhere to the prescribed safety measures when entering a warehouse, storage, or other storeroom for explosives.

(5) The penalty set out in paragraph 3 of this Article shall be imposed on a person on board of whose vessel explosive is found for which the vessel owner has not previously obtained permits, in accordance with regulations governing transport and storage of explosives.

(6) Where the offence set forth in paragraphs 3 and 4 of this Article is committed through negligence the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Unlawful Acquisition and Disposal of Nuclear Substances**

#### **Article 336**

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### **Endangering Safety with Nuclear Substances**

#### **Article 337**

(1) Whoever endangers the safety of persons by means of threats to use nuclear material, shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article is committed with the intention to force another person to act or refrain from acting, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the perpetrator of offences set forth in paragraphs 1 and 2 of this Article acted upon his threat, thus inflicting a serious bodily injury or damage to property exceeding forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(4) Where the perpetrator of offences set forth in paragraphs 1 and 2 of this Article acted upon his threat, thus causing death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from three to fifteen years.

### **Serious Offences against the General Safety**

#### **Article 338**

(1) Where an offence set forth in Articles 327, paragraphs 1 to 3, 328, paragraphs 1 and 2, 329, paragraphs 1 and 2, 330, paragraph 1 and 333 of this Code resulted in

a serious bodily injury of a person or property damage exceeding the amount of forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(2) Where an offence set forth in Articles 327, paragraphs 1 to 3, 328, paragraphs 1 and 2, 329, paragraphs 1 and 2, 330, paragraph 1 and 333 of this Code resulted in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(3) Where an offence set forth in Articles 327, paragraph 4, 328, paragraphs 3 and 4, 329, paragraph 3 and 330, paragraph 2 of this Code resulted in a serious bodily injury of a person or property damage exceeding the amount of forty thousand euro, the perpetrator shall be punished by a prison sentence for a term not exceeding four years.

(4) Where an offence set forth in Articles 327, paragraph 4, 328, paragraphs 3 and 4, 329, paragraph 3 and 330, paragraph 2 of this Code resulted in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

## **TITLE TWENTY-SEVEN**

### **CRIMINAL OFFENCES AGAINST PUBLIC TRANSPORT SECURITY**

#### **Endangering Public Transport**

##### **Article 339**

(1) A participant in road traffic who fails to adhere to traffic regulations, thereby endangering traffic to an extent that endangers life or limb of persons or of property the value of which exceeds twenty thousand euro and who thereby causes a light bodily injury to another or damage to property exceeding three thousand euro, shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever fails to adhere to traffic regulations, thereby endangering rail, ship, bus, or cable railway traffic to an extent that endangers life and limb of persons or of property the value of which exceeds twenty thousand euro, shall be punished by a prison sentence for a term from six months to six years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

#### **Endangering Traffic by Dangerous Acts or Means**

##### **Article 340**

(1) Whoever destroys, removes or severely damages traffic devices, instruments, signalling marks or devices, or safety barriers or protective guardrails providing for road traffic safety, or who gives a wrong signal or sign, or places obstructions upon roads or otherwise, thereby endangering public transport to an extent that puts in danger life and limb of persons or property the value of which exceeds twenty thousand euro, shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever endangers rail, ship, bus or cable railway traffic in the manner set out in paragraph 1 of this Article and thereby puts into danger the life and limb of persons or property the value of which exceeds twenty thousand euro, shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

#### **Jeopardising the Security of Aviation Transportation**

##### **Article 341**

(1) Whoever flies an aircraft improperly or irregularly, fails to discharge his duties or supervision obligations in relation to air transportation safety, or provides incorrect information of relevance to the secure flight of an aircraft, or otherwise jeopardises air transportation safety shall be punished by a prison sentence for a term from one to six years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence or by destroying or damaging navigation devices or inflicting other damage to the aircraft negligently, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(3) Whoever commits an act of violence directed against persons at an international civil aviation airport that causes or might cause a serious bodily injury or death of a person, shall be punished by a prison sentence for a term from six months to five years.

(4) The penalty set out in paragraph 3 of this Article shall also be imposed on whomever destroys or damages devices at an international civil aviation airport or aircraft that is not operating and that is located at that airport or interrupts work of the services at that airport, where such an act jeopardises or might jeopardise security at that airport.

### **Jeopardising the Security of Aviation and Maritime Transportation or of Fixed Platforms**

#### **Article 342**

(1) Whoever exerts violence against persons on an aircraft, ship or fixed platform in the continental shelf, or sets up or brings into an aircraft, ship or fixed platform explosive or other dangerous devices or substances, or who destroys, damages or interferes with navigation devices or causes other damage to the aircraft, ship or fixed platform or their cargo, thereby jeopardising the security of aviation transportation, maritime navigation or a fixed platform shall be punished by a prison sentence for a term from two to ten years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in a serious bodily injury of a person or damage exceeding the amount of forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(3) Where the offence set forth in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

### **Hijacking of Aircraft, Ship or Other Means of Transport**

#### **Article 343**

(1) Whoever, by means of force or threats of using force or any other grave wrong to hijack an aircraft during flight or to take over the control of an aircraft during flight, shall be punished by a prison sentence for a term from two to ten years.

(2) The penalty set forth in paragraph 1 of this Article shall also be imposed on whomever by means of force or threats of using force or any other grave wrong hijacks a ship or another means of public transport while in motion.

(3) Whoever commits the offence set forth in paragraph 1 of this Article in relation to a fixed platform in the continental shelf shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in a serious bodily injury of a person or damage exceeding the amount of forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(5) Where the offence set forth in paragraphs 1 and 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

### **Failure to Provide Assistance to a Ship or Other Vessel or to Persons in Danger at Sea or in Inland Waters**

#### **Article 344**

(1) A master of a ship, boat or other vessel used in navigation, person acting as his replacement, or a person who navigates one of the above vessels on his own, who, in violation of regulations, does not come to rescue, at sea or in inland waters, of a ship, boat or other vessel, of persons or goods in danger, in so far as he can do so without danger to his ship, boat or other vessel, shall be punished by a prison sentence for a term from three months to three years.

(2) The person set out in paragraph 1 of this Article who, in violation of regulations, does not remove a vessel which collided with the vessel under his command or management from a waterway in inland waters, in so far as he can do so without danger to that vessel, shall be punished by a prison sentence for a term not exceeding three years.

### **Piracy**

#### **Article 345**

(1) A crew member or passenger of a private ship or private aircraft who on the high seas or in a place outside the jurisdiction of any state commits an act of violence or depredation against persons on another ship or aircraft or who detains, seizes, damages or destroys another ship or aircraft or property on board such ship or aircraft, or causes damage exceeding forty thousand euro shall be punished by a prison sentence for a term from three to fifteen years.

(2) Where the offence set forth in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed by a member of the crew or a passenger of a warship, or another government ship or of a warplane or another government aircraft whose crew has mutinied and taken control of the ship or aircraft shall be punished by the penalty prescribed for that offence.

### **Negligent Supervision of Public Transport**

#### **Article 346**

(1) Where a public official or a responsible officer entrusted with supervision and maintenance of roads and pertaining facilities, conveyances, or public transport, or over compliance with the prescribed working conditions for drivers, or who is entrusted with management role in driving, who conducts his duty negligently, thus endangering the life or limb of persons or property the value of which exceeds twenty thousand euro, shall be punished by a prison sentence for a term from six months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a responsible officer who issues a driving order or allows one to drive even though he knows that due to fatigue, use of alcohol or for other reasons the driver is not capable to steer the vehicle safely or that the vehicle is not functioning properly, thereby endangering the life or limb of persons or property the value of which exceeds twenty thousand euro.

(3) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

### **Failing to Render Assistance to a Person Injured in a Traffic Accident**

#### **Article 347**

(1) A driver of a motor vehicle or of another means of transportation who leaves helpless a person who was hurt by that means of transportation or whose injury he caused by that means of transportation, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Where a serious bodily injury is inflicted on the hurt person as a result of failure to provide assistance, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding three years.

(3) Where the injured person passes away as a result of failure to provide assistance, the perpetrator shall be punished by a prison sentence for a term from three months to four years.

### **Serious Offences against Public Transport Security**

#### **Article 348**

(1) Where an offence set forth in Articles 339, paragraphs 1 and 2, 340, paragraphs 1 and 2, 341, paragraph 1, 344 and 346, paragraphs 1 and 2 of this Code resulted in a serious bodily injury of a person or property damage exceeding the amount of forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(2) Where an offence set forth in Articles 339, paragraphs 1 and 2, 340, paragraphs 1 and 2, 341, paragraph 1, 344 and 346, paragraphs 1 and 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(3) Where an offence set forth in Articles 339, paragraph 3, 340, paragraph 3, 341 paragraph 2 and 346, paragraph 3 of this Code resulted in a serious bodily injury of a person or property damage exceeding the amount of forty thousand euro, the perpetrator shall be punished by a prison sentence for a term not exceeding four years.

(4) Where an offence set forth in Articles 339, paragraph 3, 340, paragraph 3, 341, paragraph 2 and 346, paragraph 3 of this Code resulted in the death of one or more persons the perpetrator shall be punished by a prison sentence for a term from one to eight years.

## **TITLE TWENTY-EIGHT**

### **CRIMINAL OFFENCES AGAINST COMPUTER SECURITY**

#### **Damage to Computer Data and Programs**

#### **Article 349**

(1) Whoever unauthorisedly deletes, alters, damages, conceals or otherwise makes unusable computer data or program, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article results in damage exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(3) Where the offence set forth in paragraph 1 of this Article results in damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(4) The devices and instruments used for the commission of criminal offences set forth in paragraphs 1, 2 and 3 of this Article shall be confiscated provided that they are owned by the perpetrator.

### **Computer System Interference**

#### **Article 350**

(1) Whoever enters, destroys, deletes, alters, damages, conceals or otherwise makes unusable computer data or computer system with the intention to obstruct the operations of a computer system, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed in respect of data and programs that are significant to state authorities, public services, institutions, business organisations or other entities, the offender shall be punished by a prison sentence for a term from one to eight years.

(3) The devices and instruments used for the commission of the criminal offence set forth in paragraphs 1 and 2 of this Article shall be confiscated provided that they are owned by the perpetrator.

### **Creating and Inserting Computer Viruses**

#### **Article 351**

(1) Whoever creates a computer virus with the intention to insert it into someone else's computer system shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the perpetrator inserted a computer virus into someone else's computer system and thereby caused damage, he shall be punished by a fine or a prison sentence for a term not exceeding two years.

(3) The device and instruments used for the commission of the criminal offence set forth in paragraphs 1 and 2 of this Article shall be confiscated.

### **Computer Fraud**

#### **Article 352**

(1) Whoever enters, alters, erases, fails to enter correct data or otherwise conceals or falsely represents computer data or otherwise interferes in any way with the functioning of a computer system thus influencing the result of electronic processing, transfer of data and functioning of a computer system with the intention of obtaining unlawful material benefit for himself or for another and thereby causes property damage to another, shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article results in a material benefit exceeding the amount of three thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(3) Where the offence set forth in paragraph 1 of this Article results in a material benefit exceeding the amount of thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Whoever commits the offence set forth in paragraph 1 of this Article with the sole purpose of causing damage to another person shall be punished by a fine or a prison sentence for a term not exceeding two years.

### **Unauthorized Access to a Computer System**

#### **Article 353**

(1) Whoever unauthorisedly access a computer system in its entirety or part thereof, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the perpetrator committed the offence set forth in paragraph 1 of this Article by violating the measures for computer system protection or where he accesses unauthorisedly a computer system which is of significance to state authorities, local government authorities and institutions entrusted with exercising public powers, he shall be punished by a fine or a prison sentence for a term not exceeding three years.

(3) The penalty set out in paragraph 2 of this Article shall also be imposed on whomever illegally intercepts computer data which are not public, irrespective of the method of their transmission, during their transmission to, from, or within a computer system including electromagnetic emissions.

(4) Whoever uses the data obtained in the manner set out in paragraphs 1, 2 and 3 of this Article shall be punished by a fine or a prison sentence for a term not exceeding three years.

(5) Where the offence set forth in paragraph 4 of this Article resulted in grave consequences to another person, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

### **Abuse of Devices and Programs**

#### **Article 354**

(1) Whoever produces, sells, procures for use, imports, distributes and otherwise makes available:

1) devices and computer programs designed or adapted primarily for the purposes of commission of any of the offences set forth in Articles 349 to 353 of this Code,

2) computer codes or similar data through which one can access a computer system in its entirety or parts thereof, with the intention of using it for committing any of the offences set forth in Articles 349 to 353 of this Code, shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever possesses any of the instruments set out in paragraph 1 of this Article with the intention of using them for committing any of the offences set forth in Articles 349 to 353 shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Unauthorized Access to a Protected Computer and Computer Network**

#### **Article 355**

**-Deleted-**

### **Prevention and Limitation of Access to Public Computer Networks**

#### **Article 356**

**-Deleted-**

#### **TITLE TWENTY-NINE**

### **CRIMINAL OFFENCES AGAINST THE CONSTITUTIONAL ORDER AND SECURITY OF MONTENEGRO**

#### **Jeopardizing Independence**

#### **Article 357**

Whoever uses unconstitutional means to attempt to bring Montenegro into a position of subordination or dependence in relation to another state shall be punished by a prison sentence for a term from three to fifteen years.

### **Recognising Capitulation or Occupation**

#### **Article 358**

A citizen of Montenegro who signs or recognizes capitulation or accepts or recognises occupation of Montenegro or any part thereof shall be punished by a prison sentence for a minimum term of ten years or a long-term prison sentence.

### **Endangering Territorial Integrity**

#### **Article 359**

(1) Whoever exerts force or other unconstitutional means to attempt to secede part of the territory of Montenegro or to annex that part of the territory to another state shall be punished by a prison sentence for a term from three to fifteen years.

### **Assault on the Constitutional Order**

#### **Article 360**

Whoever exerts force or threats of using force to attempt to change the constitutional order of Montenegro shall be punished by a prison sentence for a term from three to fifteen years.

### **Deposing Highest State Authorities**

#### **Article 361**

Whoever exerts force or threats of using force to attempt to depose any of the highest state authorities of Montenegro or representatives of those authorities shall be punished by a prison sentence for a term from one to eight years.

### **Incitement to Forcible Change of the Constitutional Order**

#### **Article 362**

(1) Whoever with the intention to jeopardise the constitutional order or security of Montenegro calls for or incites to a forcible change of its constitutional order, to depose the highest state authorities or representatives of those authorities, shall be punished by a prison sentence for a term from three months to five years.

(2) Whoever commits the offence set forth in paragraph 1 of this Article by means of assistance from abroad shall be punished by a prison sentence for a term from one to eight years.

(3) Whoever, with the intention of distribution, produces or reproduces materials the contents of which call for or incites to commission of offences set forth in paragraph 1 of this Article or who directs or transfers to the territory of Montenegro such material, or keeps a larger quantity of such material with the intention of distribution by himself or by another shall be punished by a prison sentence for a term from three months to three years.

### **Assassination of Highest-Ranking Representatives of Montenegro**

#### **Article 363**

Whoever with the intention to jeopardize the constitutional order or security of Montenegro assassinates the President of Montenegro, Speaker of the Parliament of Montenegro, Prime Minister of Montenegro, President of the Constitutional Court of Montenegro, President of the Supreme Court, or the Supreme Public Prosecutor shall be punished by a prison sentence for a minimum term of ten years or a long-term prison sentence.

### **Armed Rebellion**

#### **Article 364**

(1) Whoever participates in an armed rebellion organised for the purpose of jeopardizing the constitutional order, security or territorial integrity of Montenegro shall be punished by a prison sentence for a term from three to fifteen years.



(2) Whoever organises or leads a rebellion shall be punished by a prison sentence for a term from five to fifteen years.

### **Terrorism**

#### **Article 365**

**-Deleted-**

### **Destroying Critical Infrastructure**

#### **Article 366**

Whoever, with the intention to jeopardise the constitutional order or security of Montenegro, demolishes, sets on fire or otherwise destroys or damages an industrial, agricultural or another industrial facility, means of transport, device or installation, telecommunication system device, water, heat, gas or energy public supply system, dam, depot, building or some other facility of greater significance for the security or the supply of citizens or for the economy or the functioning of public services shall be punished by a prison sentence for a term from three to fifteen years.

### **Sabotage**

#### **Article 367**

Whoever with the intention to jeopardise the constitutional order or security of Montenegro acts in a covert, insidious, or another similar manner in the discharge of his official duty or work obligation, thereby causing damage exceeding fifteen thousand euro to the state authority or organisation he is employed with, or to any other state authority or organisation shall be punished by a prison sentence for a term from three to fifteen years.

### **Espionage**

#### **Article 368**

(1) Whoever communicates, furnishes or makes available to a foreign state, foreign organisation or a person in their service classified information or documents shall be punished by a prison sentence for a term from three to fifteen years.

(2) Whoever creates an intelligence service in Montenegro or who manages it on behalf of a foreign state or organisation shall be punished by a prison sentence for a term from five to fifteen years.

(3) Whoever joins a foreign intelligence service, collects information for it or otherwise supports its work shall be punished by a prison sentence for a term from two to ten years.

(4) Whoever obtains classified information or documents with the intention to communicate or furnish them to a foreign state, foreign organisation or a person in their service shall be punished by a prison sentence for a term from one to eight years.

(5) Where the offences set forth in paragraphs 1 and 2 of this Article result in grave consequences to the security, economic or military power of the country the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

(6) Classified information are deemed to be information bearing one of the following data classification levels: 'top secret', 'secret', 'confidential' and 'restricted' the disclosure of which would cause or could cause detrimental consequences to the security, defence or for political or economic interests of Montenegro.

### **Disclosure of Classified Information**

#### **Article 369**

(1) Whoever unauthorisedly communicates, furnishes or makes available to an unauthorized person classified information entrusted to him or that he obtained in

some other manner shall be punished by a prison sentence for a term from one to eight years.

(2) Where the offence set forth in paragraph 1 of this Article was committed with respect to classified information marked as top secret, or where the offence was committed during a state of war, armed conflict or a state of emergency the perpetrator shall be punished by a prison sentence for a term from three to fifteen years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence the perpetrator shall be punished by a prison sentence for a term from one to six years.

(4) Classified information are deemed to be information bearing one of the following data classification levels: 'top secret', 'secret', 'confidential' and 'restricted' the disclosure of which would cause or could cause detrimental consequences to the security, defence or for political or economic interests of Montenegro.

(5) Classified information within the meaning of this Article are not considered to be the information directed at jeopardising the constitutional order and security of Montenegro, gross violations of the fundamental rights of human beings, as well as information aimed at concealing a committed criminal offence punishable by law by a prison sentence for a term of five years or a more severe penalty.

### **Provoking Ethnic, Racial and Religious Hatred**

#### **Article 370**

(1) Whoever publicly incites to violence or hatred towards a group or a member of a group defined by virtue of race, skin colour, religion, origin, nationality or ethnic affiliation shall be punished by a prison sentence for a term from six months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever publicly approves, denies the existence, or significantly reduces the gravity of the crimes of genocide, crimes against humanity and war crimes committed against a group or a member of group by virtue of their race, skin colour, religion, origin, nationality or ethnic affiliation in a manner which can lead to violence or cause hatred against a group of persons or a member of such group, where such criminal offences have been determined by a final judgment of a court in Montenegro or of an international criminal tribunal.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article was committed by coercion, ill-treatment, endangering of safety, exposure to mockery of national, ethnic or religious symbols, damaging property of another person, desecrating monuments, memorials or tombs, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Whoever commits the offence set forth in paragraphs 1 to 3 of this Article by abuse of office or where such offences result in riots, violence or other severe consequences to the joint life of nations, national minorities or ethnic groups living in Montenegro, shall be punished for the offence set forth in paragraph 1 of this Article by a prison sentence for a term from one to eight years and for the offence set forth in paragraphs 2 and 3 by a prison sentence for a term from two to ten years.

### **Violation of Territorial Sovereignty**

#### **Article 371**

Whoever, breaching the rules of international law, penetrates the territory of Montenegro shall be punished by a prison sentence for a term from one to eight years.

### **Association for the Purpose of Unconstitutional Activities**

### **Article 372**

(1) Whoever creates a group or another association in view of committing criminal offences set out in Articles 357 to 363, Articles 365 to 367 of this Code, shall be punished by the penalty provided for the offence for the commission of which the association was created.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever conspires with another person to commit any of the offences set forth in paragraph 1 of this Article, and he may also receive a lighter sentence.

(3) Whoever becomes a member of the association set out in paragraph 1 of this Article shall be punished by a prison sentence for a term from six months to five years.

(4) The perpetrator of the offence set forth in paragraph 1 of this Article who prevents the commission of offences set forth in paragraph 1 of this Article by exposing the association or otherwise shall be punished by a prison sentence for a term not exceeding three years, and he may also be released from punishment.

(5) A member of the association set out in paragraph 3 of this Article who exposes the association before committing a criminal offence set forth in paragraph 1 of this Article as its member or on behalf of the association shall be punished by a prison sentence for a term not exceeding one year, and he may also be released from punishment.

### **Preparing Acts against the Constitutional Order and Security of Montenegro**

#### **Article 373**

(1) Whoever prepares the commission of offence set out in Articles 357 to 367 and Article 368, paragraphs 1 and 2 of this Code shall be punished by a prison sentence for a term from one to five years.

(2) Whoever directs or transfers to the territory of Montenegro persons or weapons, explosive, poisons, equipment, ammunition or other material in view of committing one or more offences set out in this Title shall be punished by a prison sentence for a term from two to ten years.

(3) The preparatory actions set out in paragraph 1 of this Article shall consist of acquiring or rendering usable the means for commission of an offence, removing obstacles to commission of an offence, arranging, planning or organising with another person the commission of an offence or of other actions taken for the purpose of creating conditions for the immediate commission of a criminal offence.

### **Serious Offences against Constitutional Order and Security of Montenegro**

#### **Article 374**

(1) Where the criminal offence set out in Articles 359 to 361 and Articles 364 to 367 of this Code results in the death of one or more persons, danger to life of people, brutal violence or widespread devastation or danger to the security, economic or military power of the country, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

(2) Where during the commission of the offence set forth in paragraph 1 of this Article the perpetrator kills one or more persons with intent, he shall be punished by a prison sentence for a minimum term of ten years or a long-term prison sentence.

(3) The penalty set out in paragraph 2 of this Article shall also be imposed on whomever commits the criminal offence set out in Article 357, Articles 359 to 362, Articles 364 to 368, Articles 372 and 373, paragraph 2 of this Code during a state of war, armed conflict or state of emergency.

## **TITLE THIRTY**

### **CRIMINAL OFFENCES AGAINST STATE AUTHORITIES**

**Preventing a Public Official from Performing an Official Act**  
**Article 375**

(1) Whoever, by means of force or threats of imminently exerting force, prevents a public official from performing an official act undertaken within the limits of his powers, or forces him in the same manner into performance of an official act shall be punished by a prison sentence for a term from three months to three years.

(2) Where during the commission of the offence set forth in paragraph 1 of this Article the perpetrator insults or ill-treats a public official or inflicts a light bodily injury on him or threatens to use weapons, he shall be punished by a prison sentence for a term from three months to five years.

(3) Whoever commits the offence set forth in paragraphs 1 and 2 of this Article against a judge or a public prosecutor in performance of their judicial and prosecutorial duties respectively or against a public official in his discharge of public or state security affairs, preserving public law and order, preventing and detecting criminal offences, capturing criminal offenders or keeping persons deprived of liberty in custody shall be punished by a prison sentence for a term from six months to five years.

(4) An attempt of an offence set forth in paragraphs 1 and 2 of this Article shall be subject to punishment.

(5) Where the perpetrator of the offence set forth in paragraphs 1 to 3 of this Article is provoked by unlawful or coarse actions of the public official, he may be released from punishment.

**Attack on a Public Official in the Discharge of an Official Duty**  
**Article 376**

(1) Whoever attacks or threatens to attack a public official in the discharge of his official duty shall be punished by a prison sentence for a term not exceeding three years.

(2) Where during the commission of offence set forth in paragraph 1 of this Article a light bodily injury is inflicted on the public official or he receives threats to use weapons, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed against a judge or a public prosecutor in relation to their judicial or prosecutorial duty respectively or to a public official in relation to the discharge of his public or national security duties, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(4) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

(5) The perpetrator of the offence set forth in paragraphs 1 to 3 of this Article who was provoked by unlawful or coarse actions of the public official, he may be released from punishment.

**Taking Part in a Group Preventing a Public Official from Performing Official Acts**  
**Article 377**

(1) Whoever participates in a group which conspires to prevent a public official from performing an official act or forcing a public official in the manner described above into performance of an official act shall be punished for participation itself by a prison sentence for a term not exceeding two years.

(2) An attempted offence shall be subject to punishment.

(3) The leader of a group which commits the offence set forth in paragraph 1 of this Article shall be punished by a prison sentence for a term from six months to five years.

### **Calling for Resistance**

#### **Article 378**

(1) Whoever calls others for resistance or disobedience to lawful decisions or measures of state authorities or to a public official discharging an official act, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in non-enforcement or considerable hampering of enforcement of lawful decisions or measures of state authorities, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

### **Failure to Disperse**

#### **Article 379**

(1) Whoever fails to part from a group of people subject to an order to disperse given by an authorized public official or an authorized serviceman in circumstances threatening public order shall be punished by a fine or a prison sentence for a term not exceeding three months.

(2) The leader of a group which commits the offence set forth in paragraph 1 of this Article shall be punished by a fine or by a prison sentence for a term not exceeding two years.

### **Failure to Take Part in Efforts to Eliminate Public Danger**

#### **Article 380**

Whoever contrary to an order of a competent authority or another competent entity, refuses without a justified reason to participate in eliminating the danger caused by a fire, flood, earthquake or another accident shall be punished by a fine or a prison sentence for a term not exceeding three months.

### **Removing and Breaking of Official Seals and Signs**

#### **Article 381**

(1) Whoever removes or breaks an official seal or a sign that an authorized official person placed on an object or premises for security reasons or who without removing or breaking the seal or sign enters such premises or opens an object bearing an official seal or sign, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) An attempted offence shall be subject to punishment.

### **Appropriating and Destroying Official Seals and Files**

#### **Article 382**

(1) Whoever unlawfully takes possession of, conceals, destroys, damages or otherwise makes useless an official seal, register, file or document owned or held by a state authority, business organisation, institution or another entity exercising public powers shall be punished by a prison sentence for a term not exceeding three years.

(2) An attempted offence shall be subject to punishment.

### **False Personation**

#### **Article 383**

(1) Whoever, with the intention of obtaining for himself or another some benefit or causing damage to another, falsely personates a public official or a serviceman or who wears any emblems of a public official or a serviceman without authorization shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever performs an act that is under exclusive authority of a specific public official or serviceman.

### **Self-enforcement of Rights**

#### **Article 384**

(1) Whoever enforces his right or the right he believes to be entitled to without recourse to legal proceedings shall be punished by a fine or a prison sentence of up to six months.

(2) Where the offence set forth in paragraph 1 of this Article is committed by means of force or threats, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(3) Where the offence set forth in paragraph 1 of this Article was committed by a threat of murder or a serious bodily injury, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(4) Whoever commits the offence set forth in paragraphs 1 to 3 of this Article for another person shall be punished by the penalty prescribed for that offence.

(5) Where the offence set forth in paragraph 1 and paragraph 4 in conjunction with paragraph 1 of this Article was committed to the detriment of a citizen, prosecution shall be instituted by a private action.

## **TITLE THIRTY-ONE**

### **CRIMINAL OFFENCES AGAINST THE JUDICIARY**

#### **Failing to Report Crime Preparations**

##### **Article 385**

(1) Whoever is aware of preparations for a criminal offence punishable by law by a five-year prison sentence or a more severe penalty, but fails to report it at a time such an offence could have still been prevented, where the offence is eventually attempted or committed, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where preparations for a criminal offence punishable by law by a long-term prison sentence are not reported, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

(3) The spouse of the perpetrator, his partner in a durable customary marriage, direct blood relative, brother or sister, adoptive parent or adopted child, as well as the spouse of one of the above mentioned persons, or a person living with one of such persons in a durable customary marriage shall not be punished for the offence set forth in paragraph 1 of this Article.

#### **Failing to Report Criminal Offences and Offenders**

##### **Article 386**

(1) Whoever knows that a person committed a criminal offence punishable by law by a long-term prison sentence or who knows that such a criminal offence was committed but fails to report it before such criminal offence and the perpetrator are detected, shall be punished by a prison sentence for a term not exceeding two years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a public official or responsible officer who knowingly fails to report a crime he has been informed about in the performance of his duty, where the criminal offence is punishable by law by a five-year prison sentence or a more severe penalty.

(3) The spouse of the perpetrator, his partner in a durable customary marriage, direct blood relative, brother or sister, adoptive parent or adopted child, as well as

the spouse of one of the above mentioned persons, or a person living with one of such persons in a durable customary marriage, as well as the offender's defence counsel, physician or confessor shall not be punished for failing to report the criminal offence or the offender set forth in paragraphs 1 and 2 of this Article.

### **Assisting an Offender after the Crime**

#### **Article 387**

(1) Whoever harbours an offender or assists an offender by hiding the means or traces of an offence, or otherwise assists him to avoid detection, and who harbours a sentenced person or takes other measures with the intention to avoid the enforcement of an imposed penalty, security measure or correctional measures of referral to a correctional facility or reformatory school shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) Whoever assists the perpetrator of an offence punishable under law by a prison sentence exceeding five years shall be punished by a prison sentence for a term from three months to five years.

(3) Whoever assists the perpetrator of an offence punishable under law by a long-term prison sentence shall be punished by a prison sentence for a term from one to eight years.

(4) The penalty for the offence set forth in paragraph 1 of this Article may not be more severe in terms of its type or duration than the penalty prescribed for the criminal offence committed by the person who received assistance.

(5) The penalty for offences set forth in paragraphs 1 to 3 of this Article shall not be imposed on the spouse of the offender or his partner in a durable customary marriage, direct blood relative, brother or sister, adoptive parent or adopted child, neither on the spouse of one of the foregoing persons, or a person living with any of such persons in a durable customary marriage.

### **False Police Report**

#### **Article 388**

(1) Whoever reports a person of having committed a criminal offence prosecuted ex officio knowing that the person in question did not commit that criminal offence, shall be punished by a prison sentence for a term from three months to three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever plants traces of a criminal offence or otherwise causes criminal proceedings to be initiated for a criminal offence prosecuted ex officio against a person, knowing that the person is not the perpetrator of that offence.

(3) Whoever reports himself of having committed a criminal offence prosecuted ex officio, knowing he has not committed that criminal offence, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(4) The penalty set out in paragraph 3 of this Article shall also be imposed on whomever reports that a criminal offence prosecuted ex officio has been committed, knowing that no such crime has been committed.

### **Giving False Testimony**

#### **Article 389**

(1) A witness, expert witness, translator or interpreter who gives false testimony before the court in a disciplinary, misdemeanour or administrative procedure or any other procedure laid down by law shall be punished by a prison sentence for a term not exceeding three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a party who gives false testimony in the course of presentation of evidence by hearing

parties in a court or administrative procedure, where such testimony serves as grounds for the decision rendered in that procedure.

(3) Where the false testimony was given in criminal proceedings, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(4) Where the offence set forth in paragraph 3 of this Article resulted in particularly grave consequences to the accused person, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(5) Where the perpetrator revokes the false testimony of his own free will before the final decision has been rendered, he shall be punished by a fine or a prison sentence for a term not exceeding three months, and he may also be released from punishment.

### **Obstruction of Production of Evidence**

#### **Article 390**

(1) Whoever gives, offers or promises a gift or another advantage to a witness or expert witness or another participant before a court or another state authority, or a member of his family or family community or who uses force or threats against him in order for that person to affect the outcome of proceedings by giving false testimony or refraining from giving testimony, shall be punished by a prison sentence for a term from six months to five years.

(2) Whoever, intending to prevent or impede production of evidence, conceals, destroys, damages, or makes unusable, in whole or in part, another person's document or other objects which serve as evidence shall be punished by a fine or a prison sentence for a term not exceeding one year.

(3) The penalty set out in paragraph 2 of this Article shall also be imposed on whomever with the intention set out in paragraph 2 of this Article removes, destroys, damages, moves or relocates a borderline stone, survey marker or any other mark indicating ownership of real estate or the right to use water, or a person who fraudulently places such a mark with the same intention.

### **Violation of Confidentiality of Procedure**

#### **Article 391**

(1) Whoever unauthorisedly discloses information obtained in a court, misdemeanour, administrative or other procedure laid down by law, where such information may not be publicly disclosed under law or where it has been declared secret by a decision of a court or another competent authority, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever, without the permission of the court, publicly discloses the course of criminal proceedings conducted against juveniles or the decision rendered in such procedure or who publicly discloses the name of the juvenile against whom proceedings were conducted or the data revealing the identity of the juvenile.

(3) Whoever unauthorisedly discloses identity data or personal data of the person protected in criminal proceedings or under a special protection programme, shall be punished by a prison sentence for a term not exceeding three years.

(4) Where the offence set forth in paragraph 3 of this Article resulted in grave consequences to the protected person or where it prevented or significantly hindered the conduct of criminal proceedings, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

### **Riot by Persons Deprived of Liberty**

#### **Article 392**



(1) Where persons deprived of liberty under law gather with the intention to free themselves by force, or to jointly attack persons entrusted with the duty to guard them, or to coerce such guards by using force or threats of using immediate coercion to act or refrain from acting in violation of their duty, they shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever commits the offence set forth in paragraph 1 of this Article by means of force or threats shall be punished by a prison sentence for a term from six months to five years.

### **Escape of Persons Deprived of Liberty**

#### **Article 393**

Where a person who is deprived of liberty under law escapes by exerting force against another or threats of directly attacking the life and limb of another, he shall be punished by a prison sentence for a term from three months to five years.

### **Enabling Persons Deprived of Liberty to Escape**

#### **Article 394**

(1) Whoever exerts force, threats, deception or otherwise to enable the escape of a person deprived of his liberty under law shall be punished by a prison sentence for a term from three months to five years.

(2) Where the offence set forth in paragraph 1 of this Article is committed jointly by several persons or where escape of several persons was enabled, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Failing to Enforce a Judicial Decision**

#### **Article 395**

(1) A public official or a responsible officer who refuses to enforce a final and enforceable judicial decision shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) If the person set out in paragraph 1 of this Article enforces a final and enforceable judicial decision, a prosecution proceeding shall not be commenced, and if commenced, it shall be discontinued.

### **Breach of Prohibitions Imposed by a Security Measure**

#### **Article 395a**

Whoever breaches a prohibition imposed by a security measure under a final judicial decision set out in Articles 73, 76, 77a and 77b of this Code or who does not observe the security measure imposed shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Unlawfully Enabling Another to Engage in a Profession, Perform an Office, Duty, Affairs and Activities**

#### **Article 396**

Whoever enables another person to engage in a profession, perform an office, duty, affairs or activities knowing that such performance is prohibited to that person under a final decision imposing an appropriate security measure or a protective measure or that such disqualification took effect as a legal consequence of conviction shall be punished by a fine or a prison sentence for a term not exceeding two years.

### **Obstruction of Justice**

#### **Article 396a**

(1) Whoever by means of force or threats or otherwise seriously obstructs or prevents a judge, public prosecutor, his deputy, notary public or an enforcement agent in performance of their duties in order that they deliver or not deliver a decision shall be punished by a prison sentence for a term from six months to five years.

(2) Whoever in the commission of the offence set forth in paragraph 1 of this Article threatens to use weapons or inflicts on the persons set out in paragraph 1 of this Article a light bodily injury shall be punished by a prison sentence for a term from one to eight years.

### **Unlicensed Practice of Law**

#### **Article 397**

Whoever provides, without required professional qualifications, legal assistance for a fee shall be punished by a fine or a prison sentence for a term not exceeding two years.

## **TITLE THIRTY-TWO**

### **CRIMINAL OFFENCES AGAINST PUBLIC LAW AND ORDER**

#### **Causing Panic and Disorder**

##### **Article 398**

(1) Whoever causes panic by disclosing or disseminating false news or allegations or seriously disrupts public law and order or thwarts or hampers to a significant extent the enforcement of decisions and measures of state authorities or organisations exercising public powers, shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Where the offence set forth in paragraph 1 of this Article is committed using the media or other means of public information or similar means or at a public meeting, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

#### **Violent Behaviour**

##### **Article 399**

Whoever endangers the tranquillity of citizens or disturbs public law and order by coarse insults or ill-treatment of another, acts of violence over another, causing an affray, or by insolent and reckless conduct, where such acts are committed by a group, or where they resulted in a light bodily injury or grave humiliation of citizens, shall be punished by a prison sentence for a term from three months to five years.

#### **Violent Behaviour at a Sports Event or Public Gathering**

##### **Article 399a**

(1) Whoever physically assaults or engages in physical confrontation with participants of a sports event or public gathering, who provokes violence or acts violently, brings into a sports facility or throws onto the sports grounds, among the spectators or participants of a public gathering, objects, pyrotechnics, or other explosive, incendiary or harmful substances that may lead to bodily injury or that may endanger health of participants of a sports event or public gathering, who goes onto the playing area without authority or into the opponents' fan section and provokes violence, damages the sports facility, its equipment, devices and installations, who by his conduct or chanting or banners displayed at a sports event or public gathering provokes ethnic, racial, religious or other hatred or intolerance on discriminatory grounds, which leads to violence or physical confrontation with participants, shall be punished by a prison sentence for a term from six months to five years and by a fine.

(2) The penalty set out in paragraph 1 shall also be imposed on a person who physically assaults or engages in physical confrontation with participants of a sports event or public gathering, who provokes violence or acts violently, or damages property whose value exceeds ten thousand euro on their way to and from the sports event or public gathering.

(3) The leader of a group which commits the offence set forth in paragraphs 1 and 2 of this Article shall be punished by a prison sentence for a term from three to twelve years.

(4) Where the commission of offences set forth in paragraphs 1 and 2 of this Article resulted in a riot during which a serious bodily injury was inflicted on a person or damage to property whose value exceeds forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(5) A public official or a responsible officer who at the time of organising a sports event or public gathering fails to take security measures in order to prevent a riot, thus endangering life or limb of a large number of people or property whose value exceeds twenty thousand euro, shall be punished by a prison sentence for a term from three months to three years and by a fine.

### **Conspiracy to Commit a Crime**

#### **Article 400**

Whoever conspires with another to commit a criminal offence punishable by a prison sentence for a term of five years or a more severe penalty shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Criminal Association**

#### **Article 401**

(1) Whoever creates a group or another association aimed at committing criminal offences punishable by a one year prison sentence or a more severe sentence shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article refers to an association aimed at committing criminal offences punishable by a five year prison sentence or a more severe sentence, the mastermind of the association shall be punished by a prison sentence for a term from one to eight years, and a member of the association by a prison sentence for a term not exceeding two years.

(3) Where the offence set forth in paragraph 1 of this Article refers to an association aimed at committing criminal offences punishable by a fifteen year prison sentence, the mastermind of the association shall be punished by a prison sentence for a term from two to twelve years, and a member of the association by a prison sentence for a term not exceeding three years.

(4) Where the offence set forth in paragraph 1 of this Article refers to an association aimed at committing criminal offences punishable by a twenty year prison sentence or a long-term prison sentence, the mastermind of the association shall be punished by a prison sentence for a minimum term of ten years or a thirty year prison sentence, and a member of the association by a prison sentence for a term from six months to five years.

(5) The mastermind of the association set out in paragraphs 1 to 4 of this Article who exposes the association or otherwise prevents the commission of criminal offences which were the reason to create the association shall be punished by a prison sentence for a term not exceeding three years, and he may also be released from punishment.

(6) A member of the association set out in paragraphs 2, 3 and 4 of this Article who exposes the association or contributes to its exposure may be released of punishment.

(7) The mastermind and member of the association who commits a criminal offence as a member of the association shall be punished for that criminal offence as well.

### **Creation of a Criminal Organisation**

#### **Article 401a**

(1) Whoever creates a criminal organisation aimed at committing criminal offences punishable under law by a four year prison sentence or a more severe sentence shall be punished by a prison sentence for a term from three to fifteen years.

(2) A member of the criminal organisation set out in paragraph 1 of this Article shall be punished by a prison sentence for a term from one to eight years.

(3) The mastermind of a criminal organisation who exposes the criminal organisation or otherwise prevents the commission of criminal offences for the purpose of which the organisation was created shall be punished by a prison sentence for a term from three months to three years, and he may also be released from punishment.

(4) A member of the criminal organisation who exposes the criminal organisation or contributes to its exposure shall be punished by a prison sentence for a term not exceeding one year, and he may also be released from punishment.

(5) The mastermind and a member of the criminal organisation who commits a criminal offence as a member of the criminal organisation shall be punished for that criminal offence as well.

(6) The criminal organisation set out in paragraph 1 of this Article is considered to be the organisation composed of three or more persons which has as its objective to commit criminal offences punishable under law by a prison sentence for a term of four years or a more severe sentence, for the purpose of acquiring unlawful benefit or power, if at least three of the following requirements are met:

1) that each member of the criminal organisation had a predefined or obviously definable task or role;

2) that the activities of the criminal organisation have been planned for a longer period of time or for an unlimited period;

3) that the activities of the criminal organisation are based on the application of certain rules of internal control and member discipline;

4) that the activities of the criminal organisation are planned and implemented in international proportions;

5) that the activities of the criminal organisation include the application of violence or intimidation or that there is readiness for their application;

6) that the activities of the criminal organisation include the use of economic or business structures;

7) that the activities of the criminal organisation include the use of money laundering or illicit profits or

8) there is influence of the criminal organisation or part thereof onto public power, media, legislative, executive or judicial branches of government or other significant social or economic factors.

### **Manufacture and Acquisition of Weapons and Means Intended for Commission of Criminal Offences**

#### **Article 402**

(1) Whoever manufactures, procures or provides another person with weapons, explosives and means required for their manufacture or poison that he knows to be intended for the commission of a criminal offence shall be punished by a prison sentence for a term from six months to five years.

(2) Whoever manufactures or hands over to another person means for breaking and entering knowing that such means are intended for the commission of a criminal

offence shall be punished by a fine or a prison sentence for a term not exceeding one year.

### **Unlawful Possession of Weapons and Explosive Substances**

#### **Article 403**

(1) Whoever manufactures, sells, procures, exchanges, carries or possesses firearms, ammunition or explosive substances without authorization shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever, without authorisation, possesses, carries, manufactures, repairs, processes, sells, procures, exchanges, transports or otherwise releases into circulation firearms, ammunition, explosive substances, fragmentation or gas weapons whose possession is prohibited to the citizens shall be punished by a prison sentence for a term from six months to five years.

(3) Where the object of the offences set forth in paragraphs 1 and 2 of this Article is a larger quantity of weapons or instruments or where it concerns a weapon or other instruments of large destructive power, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Participating in a Group which Commits a Criminal Offence**

#### **Article 404**

(1) Whoever participates in a group that conspires and kills a person, or inflicts a serious bodily injury upon him, commits arson, damages property the value of which exceeds twenty thousand euro or commits another criminal offence punishable by a prison sentence of five years or more, or attempts to commit any of these offences shall be punished for participation itself by a prison sentence for a term from three months to five years.

(2) The leader of a group which commits the offence set forth in paragraph 1 of this Article shall be punished by a prison sentence for a term from one to eight years.

### **Illegal Crossing of the State Border and Smuggling of Persons**

#### **Article 405**

(1) Whoever, without the required permission, crosses or attempts to cross the state border of Montenegro, under arms or by means of force, shall be punished by a prison sentence for a term not exceeding one year.

(2) Whoever is engaged in illegal transfer of other persons across the border of Montenegro, or who enables another person, with the aim of acquiring financial or other benefit, to illegally cross the border or to illegally stay or transit shall be punished by a prison sentence for a term from three months to five years.

(3) Where the offence set forth in paragraph 2 of this Article is committed by several persons in an organised manner, through abuse of one's office, or in a manner that endangers the life or health of persons whose illegal border crossing, stay or transit is enabled or where a large number of people are being smuggled, the perpetrator shall be punished by a prison sentence for a term from one to ten years.

(4) The instruments intended for or used for the commission of offences set forth in paragraphs 1 to 3 of this Article shall be confiscated.

### **Misuse of a Call for Help and Danger Signs**

#### **Article 406**

Whoever misuses a call for help or a danger sign or who calls for help for no good reason thus causing state authorities, fire prevention or other competent organisations to take unnecessary measures or causing a traffic disorder, shall be punished by a fine or a prison sentence for a term not exceeding six months.

## **Unauthorized Organization of Games of Chance**

### **Article 407**

(1) Whoever organises games of chance without an approval issued by the competent authority, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Whoever unauthorisedly sells lottery tickets or accepts payment for games of chance organized abroad, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(3) A person who organizes games of chance or participates in a game set out in paragraph 1 of this Article using deception shall be punished by a prison sentence for a term from three months to five years.

(4) The means intended or used for the commission of offences set forth in paragraphs 1 to 3 of this Article, as well as money and other objects used in games of chance shall be confiscated.

## **Unlicensed Practice of a Profession**

### **Article 408**

Whoever practices a profession without authorisation and for a fee, the practice of which requires under law or other regulations adopted on the basis of law a licence issued by a competent authority or entity shall be punished by a fine or a prison sentence for a term not exceeding one year.

## **Unauthorized Possession and Use of Radio and Television Devices**

### **Article 409**

Whoever owns or uses a radio or television device contrary to regulations governing communications systems shall be punished by a fine or a prison sentence for a term not exceeding one year.

## **Desecration of a Dead Human Body**

### **Article 410**

Whoever unauthorisedly digs up, takes away, conceals or destroys a corpse, its part or ashes and other remains of the deceased person shall be punished by a fine or a prison sentence for a term not exceeding one year.

## **Desecrating Grave Sites**

### **Article 411**

(1) Whoever unauthorisedly digs up, demolishes, injures or grossly defaces a grave or other place of burial shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever unauthorisedly destroys, injures or removes or grossly defaces a gravestone or other memorial monument commemorating a deceased person.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article satisfies the elements of another more serious criminal offence, the perpetrator shall be punished for that offence.

## **Desecration and Unlawful Erection of Memorials**

### **Article 411a**

Whoever damages, destroys, alters without authority, makes addition to, dislocates, replaces or removes a memorial or erects or organizes the erection of a memorial which is not allowed shall be punished by a prison sentence for a term from one to three years.

TITLE THIRTY-THREE  
**CRIMINAL OFFENCES AGAINST LEGAL TRANSACTIONS**  
**Counterfeiting Documents**

**Article 412**

(1) Whoever produces a fake document or issues a false document or alters a genuine document with the intention to use such a document as a genuine one, or whoever uses such a fake or false document as a genuine one or who obtains it for use shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article was committed with respect to a public document, will, bill of exchange, cheque, public or official register or another register that must be kept under law, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

(3) An attempted offence set forth in paragraph 1 of this Article shall be subject to punishment.

**Special Cases of Document Counterfeiting**

**Article 413**

The following persons shall be deemed to be counterfeiting documents and shall be punished pursuant to Article 412 of this Code:

1) whoever unauthorisedly fills a statement affecting legal relations in a paper, blank form or any other item to which someone has affixed his signature;

2) whoever deceives another person with regard to the contents of a document so as to make another affix his signature on that document believing that he is signing another document or different contents;

3) whoever issues a document on behalf of another person without his authorization or on behalf of a person who does not exist;

4) whoever, as the party issuing a document, places next to his signature a position, rank or title although he holds no such position, rank or title, where this has major influence on the probative force of that document;

5) whoever produces a document by unauthorisedly using a genuine seal or sign.

**Counterfeiting Official Documents**

**Article 414**

(1) A public official who enters false data or fails to enter important data in an official document, register or file, or who authenticates with his signature or official seal an official document, register or file with fake contents, or who enables another with his signature or official seal to produce an official document, register or file with fake contents shall be punished by a prison sentence for a term from three months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a public official who uses a false official document, register or file in the discharge of his duties as if they were truthful, or who destroys, conceals or significantly damages or otherwise makes unusable an official document, register or file.

(3) A responsible officer in a business organisation, institution or other entity who commits the offence set forth in paragraphs 1 and 2 of this Article shall be punished by the penalty prescribed for that offence.

**Instigation to Authenticate False Content**

**Article 415**

(1) Whoever misleads a competent authority to authenticate in a public document, written record or register any false information that may be used as evidence in legal

transactions shall be punished by a prison sentence for a term from three months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever uses such a document, written record or register knowing them to be false.

## TITLE THIRTY-FOUR CRIMINAL OFFENCES AGAINST OFFICIAL DUTY

### Abuse of Office

#### Article 416

(1) A public official who misuses his office or authority, oversteps the limits of his official authority or refrains from performing his official duty and thereby obtains for himself or another undue advantage, or causes damage to another or seriously violates the rights of another shall be punished by a prison sentence for a term from six months to five years.

(2) Where the commission of offence set forth in paragraph 1 of this Article results in material benefit exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the value of material benefit obtained exceeds the amount of thirty thousand euro the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

### Negligence in Discharging One's Duties

#### Article 417

(1) A public official who, in violation of law or other regulations or general acts, fails to discharge his supervision duty or otherwise acts manifestly negligently while performing his duties, although he was aware or he was obliged to be aware or he could have been aware that this may result in a serious violation of rights of another or damage to property, provided that such a violation or damage exceeding three thousand euro actually takes place, shall be punished by a fine or a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in a grave violation of the right of another or a property damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from six months to five years.

(3) A responsible officer of an institution or other entity, with the exception of those engaged in a business activity, who commits an offence set forth in paragraphs 1 to 2 of this Article shall be punished by the penalty prescribed for that offence.

### Unlawful Collection and Payment

#### Article 418

A public official who collects payment from another person who is not obliged to pay or who charges another person more than he has duty to pay, or who when paying another person or handing over an item to another person pays or hands over less than the amount he is obliged to pay shall be punished by a fine or a prison sentence for a term not exceeding three years.

### Fraud in the Conduct of an Official Duty

#### Article 419

(1) A public official who, while performing his duties, with the intention of obtaining for himself or another person unlawful material benefit by submitting false statements of account or who otherwise misleads an authorized person to make an unlawful



payment shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article results in material benefit exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraph 1 of this Article results in material benefit exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

### **Embezzlement**

#### **Article 420**

(1) A person who, with the intention of acquiring unlawful material benefit for himself or another person, appropriates money, securities or other articles entrusted to him by virtue of his office or work in a state authority, institution or other non-commercial entity, shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article results in material benefit exceeding three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraph 1 of this Article results in material benefit exceeding thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

### **Unauthorized Temporary Use**

#### **Article 421**

Whoever temporarily and authorisedly uses money, securities or other articles entrusted to him by virtue of his office or work in a state authority, business organisation, institution, or in some other entity or a business establishment or who unauthorisedly furnishes another with such articles for his use shall be punished by a prison sentence for a term from three months to three years.

### **Petty Fraud in the Conduct of a Business, Embezzlement and Unauthorized Temporary Use**

#### **Article 421a**

(1) Whoever commits petty fraud in the conduct of a business, embezzlement or unauthorized temporary use shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Fraud in the conduct of a business, embezzlement and unauthorized temporary use shall be considered to be petty where the amount of unlawful payment, value of unlawful material benefit obtained or the value of embezzled articles or articles temporarily used by the offender without authorisation does not exceed one hundred and fifty euro and where the offender intended to acquire small-scale material benefit.

### **Trading in Influence**

#### **Article 422**

(1) Whoever either directly or through a third person solicits or receives a bribe or accepts the promise of a bribe for himself or another for agreeing to use his official or social position or his real or supposed influence to intercede that an official act be performed or not be performed shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever takes advantage of his official or social position or his real or supposed influence to intercede or promises to intercede that an official act which must not be performed be performed or that an official act which must be performed not be performed shall be punished by a prison sentence for a term from six months to five years.

(3) Where the influence set out in paragraph 2 of this Article was traded for a bribe, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) The bribe accepted shall be confiscated.

### **Instigation to Trading in Influence**

#### **Article 422a**

(1) Whoever, either directly or through a third person, gives, offers or promises a bribe to a public official or any other person for agreeing to take advantage of his official or social position or his real or supposed influence to intercede that an official act be or not be performed shall be punished by a prison sentence for a term not exceeding two years.

(2) Whoever, directly or through a third person, gives, offers or promises a bribe to a public official or any other person for agreeing to take advantage of his official or social position or his real or supposed influence to intercede that an official act be performed which must not be performed or that an official act which must be performed not be performed shall be punished by a prison sentence for a term from three months to three years.

(3) The perpetrator of the offence set forth in paragraphs 1 and 2 of this Article who had reported the offence before he learned it had been detected may be released from punishment.

(4) The bribe given shall be confiscated.

### **Passive Bribery**

#### **Article 423**

(1) A public official who directly or indirectly solicits or receives a bribe or who accepts a promise of a bribe for himself or for another for agreeing to perform an official or another act which he must not perform, or not to perform an official or another act which he must perform shall be punished by a prison sentence for a term from two to twelve years.

(2) A public official who directly or indirectly solicits or receives a bribe, or who accepts a promise of a bribe for himself or another for agreeing to perform an official or another act which he must perform, or not to perform an official or another act which he must not perform shall be punished by a prison sentence from two to eight years.

(3) A public official who commits an offence set forth in paragraphs 1 or 2 of this Article in relation to detection of a criminal offence, initiating or conducting of criminal proceedings, imposing or enforcing a criminal sanction shall be punished by a prison sentence for a term from three to fifteen years.

(4) A public official who after performing or failure to perform an official or other act set out in paragraphs 1, 2 and 3 of this Article, or in conjunction with such act, solicits or receives a bribe shall be punished by a prison sentence for a term from three months to three years.

(5) Where a responsible officer or another person of an institution or another non-commercial entity commits an offence set forth in paragraphs 1, 2 and 4 of this Article, he shall be punished by the penalty prescribed for that offence.

(6) The bribe accepted shall be confiscated.

**Active Bribery**  
**Article 424**

(1) Whoever directly or indirectly gives, offers or promises a bribe to a public official, for himself or for another person, for agreeing to perform an official or other act he must not perform or not to perform an official or other act he must perform or whoever intercedes in bribing a public official in the manner described above shall be punished by a prison sentence for a term from one to eight years.

(2) Whoever directly or indirectly gives, offers or promises a bribe to an official person, for himself or for another person, for agreeing to perform an official or other act he must perform or not to perform an official or other act he must not perform, or whoever intercedes in bribing an official person in the manner described above shall be punished by a prison sentence for a term from six months to five years.

(3) The perpetrator of the offence set forth in paragraphs 1 and 2 of this Article who had reported the offence before he learned it had been detected may be released from punishment.

(4) Provisions of paragraphs 1, 2 and 3 of this Article shall also apply when a bribe was given, offered or promised to a responsible officer or another person of an institution or another non-commercial entity.

**Disclosure of Official Secret**

**Article 425**

**-Deleted-**

TITLE THIRTY-FIVE

**CRIMES AGAINST HUMANITY AND OTHER VALUES PROTECTED UNDER  
INTERNATIONAL LAW**

**Genocide**

**Article 426**

Whoever, with the intention of destroying a national, ethnic, racial or religious group in whole or in part, orders killings or inflicting serious bodily injuries or serious impairment of physical or mental health of the group members, or that the group be put under such living conditions which are created to bring about its physical destruction in whole or in part, or that measures be pronounced intended to prevent births within the group, or that children of the group be forcibly moved to another group, or whoever with the same intent commits one of the foregoing acts, shall be punished with a sentence of imprisonment for not less than five years or long term imprisonment.

**Crimes against Humanity**

**Article 427**

Whoever, in violation of the rules of international law, as part of a widespread or systematic attack directed against any civilian population, orders any of the following: murders; deliberately inflicting on the population or parts thereof conditions of life calculated to bring about its physical destruction in whole or in part; enslavement; forcible transfer of population; torture; rape; enforced prostitution; forced pregnancy or enforced sterilization with the intent of affecting the ethnic composition of the population; persecution or expulsion on political, religious, racial, national, ethnic, cultural, gender or other grounds; detention or abduction of persons followed by a refusal to acknowledge that deprivation of freedom with the intention of removing them from the protection of the law; oppression and domination by one racial group over any other racial group; or other inhumane acts of a similar character intentionally causing great suffering, or serious injury to health; or who commits any

of the foregoing acts shall be punished by a prison sentence for a term not shorter than five years or a long-term prison sentence.

### **War Crimes against the Civilian Population**

#### **Article 428**

(1) Whoever, in violation of the rules of international law, in time of war, armed conflict or occupation orders an attack upon civilian population, settlement, individual civilians, incapacitated persons or personnel or installations involved in a humanitarian assistance or peacekeeping mission; an indiscriminate attack affecting the civilian population or civilian facilities under special protection of international law; launching an attack on military objective in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects which would be clearly excessive in relation to the military advantage anticipated; orders action against civilian population so as to physically injure, torture, treat inhumanly, use in biological, medical and other scientific experiments or take tissue or organs for transplantation, or to perform other acts causing harm to health or great suffering, or ordering the displacement or movement or forcible change of nationality or religion; coercion to prostitution or rape; taking of measures of intimidation and terror, taking of hostages, collective sentencing, unlawful placing under arrest and detention; deprivation of the right to a just and impartial trial; proclamation of rights and acts of nationals of the opposite party forbidden, suspended or not allowed in court procedure; compelling to serve in the armed forces of a hostile power or in its intelligence service or administration; compulsory recruitment of persons under the age of eighteen years into the armed forces; forced labour; starvation of population; large-scale misappropriation, seizing or destroying of the population's property which is not imperatively demanded by the necessities of war; taking an illegal and disproportionate contribution or requisition; devaluation of domestic money or the unlawful issuance of money or who commits any of the foregoing offences shall be punished by a prison sentence for a minimum term of five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on those who, in violation of rules of international law applicable in the time of war, armed conflict or occupation, order: that an attack be launched against objects accorded specific protection under international law, as well as works and installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations; that civilian objects accorded specific protection under international law, non-defended localities and demilitarized zones be targeted; infliction of long-term and severe damage to the natural environment that may prejudice the health or survival of the population, or whoever commits any of the foregoing acts.

(3) Whoever in the time of war, armed conflict or occupation orders killings of the civilian population or who commits such a crime shall be punished by a prison sentence for a term not shorter than ten years or by a long-term prison sentence.

(3) Whoever in violation of rules of international law applicable in the time of war, armed conflict or occupation, orders or carries out as an occupier the resettlement of parts of his civilian population into the occupied territory, shall be punished by a prison sentence for a minimum term of five years.

(5) Whoever threatens to commit one or more offences set forth in paragraphs 1 and 2 of this Article shall be punished by a prison sentence for a term from six months to five years.

### **War Crimes against the Wounded and Sick**

#### **Article 429**

Whoever, in violation of rules of international law applicable in the time of war or armed conflict, orders infliction of bodily injuries, torture, inhuman treatment of the

wounded, sick and shipwrecked or medical and religious personnel, including therein biological, medical or other scientific experiments, removal of tissue or organs for transplantation or other acts causing injury to health or great sufferings or orders unlawful extensive destruction or appropriation of materials, medical transports and supplies of medical establishments or units not justified by military necessity, or whoever commits any of the foregoing acts shall be punished by a prison sentence for a term not shorter than five years.

(2) Whoever in the time of war, armed conflict or occupation orders killings of the wounded or sick or who commits such a crime shall be punished by a prison sentence for a term not shorter than ten years or by a long-term prison sentence.

### **War Crimes against Prisoners of War**

#### **Article 430**

(1) Whoever, in violation of rules of international law, orders infliction of bodily injuries, torture, inhuman treatment of the prisoners of war, including therein biological, medical or other scientific experiments, removal of tissue or organs for transplantation or other acts causing injury to health or great sufferings or orders the compelling to serve in the armed forces of a hostile Power or the depriving of the right to a fair and regular trial, or who commits any of the foregoing acts, shall be punished by a prison sentence for a minimum term of five years.

(2) Whoever in the time of war, armed conflict or occupation orders killings of the prisoners of war or who commits such a crime shall be punished by a prison sentence for a term not shorter than ten years or by a long-term prison sentence.

### **Organisation and Instigation to Commit Genocide and War Crimes**

#### **Article 431**

(1) Whoever conspires with another to commit any of the criminal offences set forth in Articles 426 to 430 of this Code, shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever organizes a group in view of committing any of the criminal offences set forth in paragraph 1 of this Article, shall be punished by a prison sentence for a term from five to fifteen years.

(3) Whoever becomes a member of the group set out in paragraph 1 of this Article, shall be punished by a prison sentence for a term from one to eight years.

(4) The perpetrator of the offence set forth in paragraphs 1 and 3 of this Article who exposes the conspiracy or the group before committing a criminal offence as its member or on behalf of the group, and a perpetrator of the offence set forth in paragraph 2 of this Article who prevents the commission of the offence set forth in paragraph 1 of this Article may receive a lighter sentence.

(5) Whoever calls for or incites to the commission of criminal offences set forth in Articles 426 to 430 of this Code, shall be punished by a prison sentence for a term from two to ten years.

### **Use of Forbidden Instruments of Combat**

#### **Article 432**

(1) Whoever in time of war or armed conflict orders the use of instruments of combat or a combat method prohibited under the rules of international law or who uses them himself shall be punished by a prison sentence for a term from two to ten years.

(2) Where the offences set forth in paragraph 1 of this Article result in the death of a number of persons, the perpetrator shall be punished by a prison sentence for a minimum term of five years or by a long-term prison sentence.

(3) Whoever calls for or prepares the use of instruments of combat or fighting methods set out in paragraph 1 of this Article shall be punished by a prison sentence for a term from six months to five years.

### **Unlawful Manufacture of Prohibited Weapons**

#### **Article 433**

(1) Whoever, contrary to law, other regulations or rules of international law, manufactures, purchases, sells, imports, exports or otherwise obtains or gives to another, possesses or transports weapons the manufacture or use of which is prohibited or the materials required for the manufacture thereof shall be punished by a prison sentence for a term from one to five years.

(2) A public official or a responsible officer who orders or enables a legal person to engage in activities set out in paragraph 1 of this Article shall be punished by a prison sentence for a term from one to eight years.

### **Unlawful Killing and Wounding of an Enemy**

#### **Article 434**

(1) Whoever, in violation of rules of international law in time of war or armed conflict, kills or wounds an enemy who has laid down his weapons or has unconditionally surrendered or was left without any means of defence shall be punished by a prison sentence for a term from one to fifteen years.

(2) Where the murder set out in paragraph 1 of this Article was committed in an insidious manner or out of base motives, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

(3) Where the murder set out in paragraph 1 of this Article was committed in a cruel manner or out of greed or if several persons were murdered, the perpetrator shall be punished by a prison sentence for a minimum term of ten years or a long-term prison sentence.

(4) The penalty set out in paragraph 3 of this Article shall also be imposed on whomever, in violation of rules of international law in time of war or armed conflict, orders that there shall be no enemy survivors or who conduct hostilities on this basis.

### **Misappropriation of Property from Casualties of War**

#### **Article 435**

(1) Whoever orders misappropriation of articles from persons killed or injured on the battlefield or who commits such misappropriation shall be punished by a prison sentence for a term from one to five years.

(2) Where the offence set forth in paragraph 1 of this Article was committed in a cruel manner or where the value of misappropriated articles exceeds three thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the value of property set out in paragraph 1 of this Article exceeds thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

### **Wrongdoing against an Envoy Bearing a Flag of Truce**

#### **Article 436**

Whoever, in violation of rules of international law in time of war or armed conflict insults, ill-treats or detains an envoy bearing a flag of truce or his escort or who prevents their return or otherwise violates their inviolability or who orders the commission of such offences shall be punished by a prison sentence for a term from six months to five years.

## **Cruel Treatment of the Wounded, Sick and of Prisoners of War**

### **Article 437**

Whoever, in violation of rules of international law, treats inhumanly the wounded, sick or prisoners of war, or who prevents or denies their access to the rights vested in them under such rules or who orders the commission of such offences shall be punished by a prison sentence for a term from six months to five years.

## **Unjustifiable Delay in the Repatriation of Prisoners of War**

### **Article 438**

Whoever, in violation of rules of international law, after the end of a war or armed conflict, unjustifiably delays the repatriation of prisoners of war or civilians, or who orders such a delay shall be punished by a prison sentence for a term from six months to five years.

## **Destruction of Cultural Goods**

### **Article 439**

(1) Whoever, in violation of rules of international law in time of war or armed conflict destroys or uses for military purposes cultural or historic monuments or other cultural goods or religious facilities or institutions or facilities intended for science, art, education or humanitarian aims or who misappropriates a movable cultural good or orders the commission of such offences shall be punished by a prison sentence for a term from three to fifteen years.

(2) Where the action set out in paragraph 1 of this Article resulted in the destruction of a facility which is under special protection of international law as a cultural good, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

## **Failure to Undertake Measures to Prevent Criminal Offences against Humanity and Other Values Protected under International Law**

### **Article 440**

(1) A military commander or a person effectively performing that office or a superior civilian who knowing that the forces under his command or control are preparing or have commenced the commission of a criminal offence set forth in Articles 426 to 430, Article 432, Articles 434 to 437 and Article 439 of this Code fails to take the necessary measures that he could have taken and was obliged to take for the prevention of commission of the offences and thereby causes actual commission of such an offence, shall be punished by a prison sentence for a term from two to ten years.

(2) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

## **Misuse of International Symbols**

### **Article 441**

(1) Whoever misuses or carries without authorization the flag or emblem of the United Nations or the flag or emblem of the International Committee of the Red Cross or symbols equivalent to them or other internationally recognized signs used to mark certain facilities for their protection against military operations or who orders that such offences be committed shall be punished by a prison sentence for a term not exceeding three years.

(2) Whoever commits the offence set forth in paragraph 1 of this Article in a zone of war operations shall be punished by a prison sentence for a term from six months to five years.

### **Crimes of Aggression**

#### **Article 442**

(1) Whoever calls for or incites to an act of aggression shall be punished by a prison sentence for a term from two to twelve years.

(2) Whoever orders an act of aggression or takes part in taking a decision that an act of aggression be committed shall be punished by a prison sentence for a minimum term of ten years or by a forty year prison sentence.

(3) Whoever prepares for the offence set forth in paragraph 2 of this Article shall be punished by a prison sentence for a term from six months to five years.

### **Racial and Other Forms of Discrimination**

#### **Article 443**

(1) Whoever, due to national or ethnic affiliation, race or religion or due to the lack thereof, or due to the differences in terms of political or any other belief, sex, language, education, social position, social origin, sexual orientation, gender identity, disability, financial standing or any other personal characteristic violates fundamental human rights and freedoms guaranteed by generally recognized rules of international law and international treaties ratified by Montenegro shall be punished by a prison sentence for a term from six months to five years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever persecutes organisations or individuals for their efforts to ensure equality of people.

(3) Whoever spreads ideas of superiority of one race over another, or propagates hatred or intolerance on grounds of race, sex, disability, sexual orientation, gender identity or other personal characteristics, or who incites to racial or other forms of discrimination shall be punished by a prison sentence for a term from three months to three years.

(4) Whoever commits the offence set forth in paragraphs 1 to 3 of this Article by abuse of office or where such offences lead to riots or violence shall be punished for the offence set forth in paragraphs 1 and 2 of this Article by a prison sentence for a term from one to eight years, and for the offence set forth in paragraph 3 of this Article by a prison sentence for a term from six months to five years.

### **Trafficking in Persons**

#### **Article 444**

(1) Whoever, by means of the threat or use of force, fraud or deception, of the abuse of power, trust, dependence, a position of vulnerability, withholding, taking away or destroying personal documents, counterfeiting personal documents, procuring or manufacturing of counterfeit documents or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, commits any of the following: recruits, transports, transfers, surrenders, sells, buys, negotiates the sale of, harbours or receipts another person for the purpose of exploitation of his labour, forced labour, submission to servitude, slavery or practices similar to slavery, commission of criminal activity, prostitution or other forms of sexual exploitation, beggary, exploitation for pornographic purposes, for conclusion of an unlawful marriage, removal of organs for transplantation, or for exploitation in armed conflicts shall be punished by a prison sentence for a term from one to ten years.



(2) The offence set forth in paragraph 1 of this Article shall be deemed committed against a minor even where the perpetrator did not use force, threat or any other of the foregoing methods of commission.

(3) Where the offence set forth in paragraph 1 of this Article is committed against a minor, or where the offence set forth in paragraph 1 of this Article is committed by a public official while discharging his official duty or where the life of one or more persons is endangered with criminal intent, the perpetrator shall be punished by a prison sentence for a minimum term of three years.

(4) Where the offence set forth in paragraphs 1 to 3 of this Article resulted in a serious bodily injury of a person, the perpetrator shall be punished by a prison sentence for a term from one to twelve years.

(5) Where the offence set forth in paragraphs 1 and 3 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

(6) Whoever commits the criminal offence set forth in paragraphs 1 to 3 of this Article on a regular basis, or where the offence was committed in an organised manner by several persons, shall be punished by a prison sentence for a minimum term of ten years.

(7) Whoever uses the services of a person knowing that the person was the subject of the offence set forth in paragraph 1 of this Article shall be punished by a prison sentence for a term from six months to five years.

(8) Where the offence set forth in paragraph 7 of this Article is committed against a minor, the perpetrator shall be punished by a prison sentence for a term from three to fifteen years.

(9) The consent of victim who was the subject of the offence set forth in paragraphs 1 to 3 of this Article shall have no impact on the qualification of that criminal offence.

### **Trafficking in Minors for Adoption**

#### **Article 445**

(1) Whoever abducts a minor for adoption contrary to valid regulations or whoever adopts such a person or mediates in such an adoption or whoever for that purpose buys, sells or surrenders another person who has not reached the age of fourteen or who transports, provides accommodation for or conceals such a person shall be punished by a prison sentence for a term from one to five years.

(2) Whoever commits the activity set forth in paragraph 1 of this Article on a regular basis, or where the offence was committed in an organised manner by several persons, shall be punished by a prison sentence for a minimum term of three years.

### **Submission to Slavery and Transportation of Persons Held in Slavery**

#### **Article 446**

(1) Whoever, in violation of rules of international law, places another into slavery or other similar position or keeps him in such a position, buys, sells, surrenders to another or negotiates the buying, selling or surrendering of such person or who incites another person to sell his own freedom or the freedom of his dependants or care-receivers shall be punished by a prison sentence for a term from one to ten years.

(2) Whoever transports persons held in slavery or similar position from one country to another shall be punished by a prison sentence for a term from six months to five years.

(3) Whoever commits the offence set forth in paragraphs 1 and 2 of this Article against a minor shall be punished by a prison sentence for a term from five to fifteen years.

## **Terrorism**

### **Article 447**

(1) Whoever, with the intention to seriously intimidate citizens or to coerce Montenegro, a foreign state or an international organization to act or refrain from acting, or to seriously endanger or violate the basic constitutional, political, economic or social structures of Montenegro, a foreign state or an international organization, commits any of the following offences:

- 1) attack on the life, limb or freedom of another,
- 2) abduction or hostage taking,
- 3) destruction of state or public facilities, traffic systems, infrastructure, including information systems, fixed platforms in the continental shelf, public good or private property that may endanger the lives of people or cause considerable damage to the economy,
- 4) hijack of an aircraft, vessel, means of public transport or transport of goods that may endanger the lives of people,
- 5) development, possession, procurement, transport, supply or use of weapons, explosives, nuclear or radioactive material or devices, nuclear, biological or chemical weapons,
- 6) research and development of nuclear, biological and chemical weapons,
- 7) hazardous materials release or setting fires, explosions or floods or taking other generally dangerous actions that might endanger the lives of people,
- 8) obstruction or termination of water supply, electric energy or another energy-generating product supply that might endanger the lives of people shall be punished by a prison sentence for a minimum term of five years.

(2) Whoever threatens to commit the criminal offence set forth in paragraph 1 of this Article shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraph 1 of this Article results in the death of one or more persons or large-scale destruction, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

(4) Where during the commission of the offence set forth in paragraph 1 of this Article the perpetrator kills one or more persons with intent, he shall be punished by a prison sentence for a minimum term of twelve years or a long-term prison sentence.

## **Public Call for the Commission of Terrorist Acts**

### **Article 447a**

Whoever publicly calls for or otherwise instigates to the commission of the criminal offence set forth in Article 447 of this Code shall be punished by a prison sentence for a term from one to ten years.

## **Recruitment and Training for Commission of Terrorist Acts**

### **Article 447b**

(1) Whoever, for the purpose of committing the offence set forth in Article 447 of this Code, recruits another to commit or participate in the commission of that offence or to join a group of people or a criminal association or criminal organization in view of participating in the commission of that criminal offence shall be punished by a prison sentence for a term from one to ten years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever, with the intention to commit the criminal offence set forth in Article 447 of this Code, gives instructions on the manufacture and use of explosive devices, firearms or other weapons or harmful or hazardous materials or who trains another

person for the commission of or participation in the commission of that criminal offence.

### **Use of a Lethal Implement**

#### **Article 447c**

(1) Whoever, with the intention to kill another person, inflict a serious bodily injury, or destroy or significantly damage a state or public facility, public transport system or another facility of great significance for the security or supply of citizens, or for the economy or operation of public services, manufactures, transfers, keeps, gives to another, sets up or activates a lethal implement (explosive, chemical agents, biological agents or poisons or radioactive material) in a public location or in a facility or next to that facility shall be punished by a prison sentence for a term from one to eight years.

(2) Where in the commission of an offence set forth in paragraph 1 of this Article the perpetrator inflicted a serious bodily injury upon another person with criminal intent or destroyed or significantly damaged a facility, he shall be punished by a prison sentence for a term from five to fifteen years.

(3) Where while committing offences set forth in paragraph 1 of this Article the perpetrator kills one or more persons with intent he shall be punished by a prison sentence for a minimum term of ten years or by a long-term prison sentence.

### **Destruction or Damage of a Nuclear Facility**

#### **Article 447d**

(1) Whoever, with the intention to kill another person, inflict a serious bodily injury, endanger the environment or cause significant property damage, destroys or damages a nuclear facility in a manner which results or could result in the release of radioactive material shall be punished by a prison sentence for a term from two to ten years.

(2) Where in the commission of an offence set forth in paragraph 1 of this Article the perpetrator inflicted a serious bodily injury upon another person with criminal intent or destroyed or significantly damaged a nuclear facility, he shall be punished by a prison sentence for a term from five to fifteen years.

(3) Where during the commission of an offence set forth in paragraph 1 of this Article the perpetrator killed one or more persons with intent, he shall be punished by a prison sentence for a minimum term of ten years or by a long-term prison sentence.

### **Endangering Persons under International Protection**

#### **Article 448**

(1) Whoever commits abduction or another type of violence against a person under international legal protection or a member of his family shall be punished by a prison sentence for a term from two to twelve years.

(2) Whoever attacks the official premises, private apartment or vehicle of a person under international legal protection in a manner that may endanger his safety and personal freedom shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from five to fifteen years.

(4) Where during the commission of the offence set forth in paragraphs 1 to 2 of this Article the perpetrator deprives a person of life with intent, he shall be punished by a prison sentence for a minimum term of ten years or by a long-term prison sentence.

(5) Whoever endangers the safety of the person set out in paragraph 1 of this Article by a serious threat to attack his life or limb or that of a member of his family, his official premises, private apartment or a vehicle shall be punished by a prison sentence for a term from six months to five years.

## **Terrorism Financing**

### **Article 449**

(1) Whoever procures in any manner or raises assets for the purpose of using them or knowing that they would be used, in whole or in part, to finance the commission of criminal offences set out in Articles 164, 337, 340, 341, 342, 343, 447, 447a, 447b, 447c, 447d, 448 and 449 of this Code, or to finance organisations which have set the commission of these offences as their aim, or members of such organisations or an individual whose aim is to commit such offences shall be punished by a prison sentence for a term from one to ten years.

(2) The assets set out in paragraph 1 of this Article shall be deemed to include all assets, material or non-material, movable or immovable, irrespective of the way in which they were obtained and the form of the document or certificate, including electronic or digital forms, evidencing ownership or interest in such assets, including bank loans, traveller's cheques, money orders, securities, letters of credit and other funds.

(3) The funds set out in paragraph 1 of this Article shall be confiscated.

## **Terrorist Association**

### **Article 449a**

(1) Where two or more persons mutually associate for a longer period in view of committing criminal offences set forth in Articles 447, 447a, 447b, 447c, 447d, 448 and 449 of this Code, they shall be punished by the penalty prescribed for the offence whose commission was the reason to create the association.

(2) The perpetrator of the offence set forth in paragraph 1 of this Article who prevents the commission of offences set forth in paragraph 1 of this Article by exposing the association or otherwise, or contributes to its exposure shall be punished by a prison sentence for a term not exceeding three years, and he may also be released from punishment.

## **Participation in Foreign Armed Formations**

### **Article 449b**

(1) Whoever, contrary to law, other regulations or rules of international law, recruits, enlists, prepares, organizes, manages, transports or arranges the transport of or trains an individual or a group of people with the intention of them joining or taking part in a foreign armed formation operating outside of Montenegro, shall be punished by a prison sentence for a term from two to ten years.

(2) Whoever, contrary to law, other regulations or rules of international law departs in view of joining or taking part in, joins or takes part in a foreign armed formation operating outside of Montenegro, individually or in organized groups, shall be punished by a prison sentence for a term from six months to five years.

(3) Whoever, either directly or through a third person, offers, gives, provides, seeks, collects or conceals financial assets, funds, material assets or equipment which is, in whole or in part, intended for the commission of offences set forth in paragraphs 1 and 2 of this Article shall be punished by a prison sentence for a term from one to eight years.

(4) Whoever publicly calls for the commission of offences set forth in paragraphs 1, 2 and 3 of this Article shall be punished by a prison term for a term from six months to five years.

(5) The person set out in paragraphs 1 to 4 of this Article, who exposes an individual or a group and thus prevents the commission of a criminal offence, shall be punished by a prison sentence for a term from six months to three years and he may also be released from punishment.

(6) A foreign armed formation, within the meaning of this Article, is a terrorist organisation, foreign military or police, foreign paramilitary formation or para-police formation established contrary to law, other regulations or rules of international law.

## **TITLE THIRTY-SIX**

### **CRIMINAL OFFENCES AGAINST THE MILITARY OF MONTENEGRO**

#### **Evasion of Military Service**

##### **Article 450**

(1) Whoever, without justified reason, in time of war or emergency fails to comply with an order to report for military service, compulsory military service, or an obligation of a reserve formation member or avoids receiving a call-up notice shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever hides to avoid his military service set out in paragraph 1 of this Article shall be punished by a prison sentence for a term from three months to three years.

(3) Whoever leaves the country or stays abroad to avoid his military service set out in paragraph 1 of this Article shall be punished by a prison sentence for a term from one to eight years.

(4) Whoever calls for or incites several persons to commit the offences set forth in paragraphs 1 to 3 of this Article shall be punished for the offence set forth in paragraph 1 by a prison sentence for a term not exceeding three years, and for the offence set forth in paragraphs 2 and 3 by a prison sentence for a term from two to twelve years.

(5) The perpetrator of the offence set forth in paragraphs 1 to 3 of this Article who voluntarily reports himself to a competent state authority may be released from punishment.

#### **Evasion of Inventories and Inspections**

##### **Article 451**

(1) Whoever, contrary to an obligation laid down by law and without justified reason, fails to observe an invitation of an authority competent for inventory-taking or inspection, or opposes the inventory-taking or inspection of manpower or material resources necessary for the defence of the country, or who provides false data during such inventory-taking or inspection shall be punished by a fine or a prison sentence for a term not exceeding one year.

#### **Failure to Perform a Work Duty**

##### **Article 452**

Whoever, contrary to an obligation laid down by law and without justified reason, in time of war or emergency fails to perform a work duty shall be punished by a prison sentence for a term from six months to five years.

#### **Evasion of Military Service by Self-injure or Deception**

##### **Article 453**

**-Deleted-**

#### **Unlawful Exemption from Military Service**

##### **Article 454**

**-Deleted-**

#### **Absence without Leave and Desertion from the Military of Montenegro**

#### **Article 455**

(1) A serviceman who is hiding in order to avoid military service or who leaves the country or stays abroad to avoid military service shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) A serviceman who is absent from his unit or service in the military without leave during an increased level of combat readiness of the unit shall be punished by a prison sentence for a term from three months to three years.

(3) The perpetrator of the offence set forth in paragraphs 1 and 2 of this Article who voluntarily reports himself to the competent state authority in view of performing his military service may receive a lighter sentence.

#### **Failure and Refusal to Execute an Order**

##### **Article 456**

(1) A serviceman who fails to or refuses to execute an order of his superior in relation to the service, where such failure or refusal results in serious detrimental consequences to the service or serious threat to the service shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in grave consequences to the military service or where the order was related to the receipt and use of weapons, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence, the perpetrator shall be punished for the offence set forth in paragraph 1 by a fine or a prison sentence for a term not exceeding one year, and for the offence set forth in paragraph 2 by a prison sentence for a term from three months to three years.

#### **Resistance to a Superior**

##### **Article 457**

(1) A serviceman who together with other servicemen offers resistance to the order of a superior in relation to the service in the military and refuses to execute it, or refuses to discharge his duty shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article was committed in an organised manner, the perpetrator shall be punished by a prison sentence for a term from one to five years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article was committed by use of weapons, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) A serviceman who, while committing the offences set forth in paragraphs 1 to 3 of this Article, deprives the life of another through negligence shall be punished by a prison sentence for a term from two to ten years.

(5) The mastermind and leader of a group which commits the offence set forth in paragraph 2 of this Article shall be punished by a prison sentence for a term from two to ten years.

(6) - **deleted** -

(6) A military commander who, within the limits of his powers, in the event of the offences set forth in paragraphs 1 to 4 of this Article fails to take measures that are prescribed, ordered or obviously necessary for the restoration of order shall be punished by a prison sentence for a term from one to five years.

#### **Resisting a Serviceman Performing Special Military Services**

##### **Article 458**

Whoever resists a serviceman performing sentry, entry-exit registration, patrol, stand-by, guard or other similar service or disobeys his call or fails to obey or refuses to execute his order, resulting in serious detrimental consequences to the service, or serious danger to the service, shall be punished by a prison sentence for a term from three months to three years.

### **Coercion against a Serviceman in the Discharge of an Official Duty**

#### **Article 459**

Whoever by means of force or threats of imminently using force prevents a serviceman from the discharge of an official duty, or who compels him in the same manner to act contrary to his official duty, thus causing grave consequences to the service in the military, shall be punished by a prison sentence for a term from one to eight years.

### **Attack against a Serviceman while Serving in the Military**

#### **Article 460**

(1) Whoever attacks or threatens to attack a serviceman who is serving in the military shall be punished by a prison sentence for a term from three months to three years.

(2) Where in the commission of the offence set forth in paragraph 1 of this Article the perpetrator inflicts a light bodily injury upon a serviceman or where the perpetrator threatens to use weapons, he shall be punished by a prison sentence for a term from three months to five years.

(3) Where during commission of the offence set forth in paragraph 1 of this Article the perpetrator inflicts a serious bodily injury upon a serviceman or causes grave consequences to the service through negligence, he shall be punished by a prison sentence for a term from one to eight years.

(4) Where, during commission of the offence set forth in paragraph 1 of this Article, the perpetrator deprives a serviceman of his life through negligence, he shall be punished by a prison sentence for a term from two to ten years.

### **Release from Punishment for Offences Set Forth in Articles 456 to 460**

#### **Article 461**

Where the perpetrator of an offence set forth in Articles 456 and 457, paragraph 1, 458 and 459, paragraphs 1 and 2 and 460, paragraphs 1 and 2 of this Code was provoked by unlawful or coarse actions of a serviceman, he may be released from punishment.

### **Ill-treatment of Subordinates or Subalterns**

#### **Article 462**

(1) A military commander who during his duty or in relation to his duty ill-treats a subordinate or subaltern or treats them in a manner offensive to human dignity shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article is committed against several persons, the perpetrator shall be punished by a prison sentence for a term from one to five years.

### **Violation of a Special Military Duty**

#### **Article 463**

(1) A serviceman who acts contrary to regulations on sentry, entry-exit registration, patrol, stand-by, guard or other similar duty, thereby endangering the lives of people

or property exceeding forty thousand euro or causing other grave consequences shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in a serious bodily injury of a person or property damage exceeding the amount of forty thousand euro, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Where the offences set forth in paragraphs 1 to 3 of this Article are committed through negligence, the perpetrator shall be punished for the offence set forth in paragraph 1 by a fine or a prison sentence for a term not exceeding one year, for the offence set forth in paragraph 2 by a prison sentence for a term not exceeding three years and for the offence set forth in paragraph 3 by a prison sentence for a term from one to eight years.

### **Violation of Security of the State Border**

#### **Article 464**

(1) A public official who while performing his duty at the state border acts contrary to the regulations on state border protection thereby causing serious detrimental consequences or serious danger to the service shall be punished by a prison sentence for a term from three months to five years.

(2) Where the offence set forth in paragraph 1 of this Article was committed during a state of war or emergency or under other special circumstances or where the offence resulted in a serious bodily injury or property damage exceeding forty thousand euro or other grave consequences, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

(5) Where the offence set forth in paragraph 4 of this Article resulted in the consequence set out in paragraph 2 of this Article, the perpetrator shall be punished by a prison sentence for a term from three months to three years, and where it resulted in the consequence set out in paragraph 3 of this Article, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Submission of False Official Reports**

#### **Article 465**

(1) A serviceman who officially reports to his superior officer, orally or in writing, false data important to the service or who withholds an important fact, or forwards such a report knowing that the data therein are false, thereby causing grave detrimental consequences or serious danger to the service shall be punished by a prison sentence for a term from three months to three years.

(2) Where the offence set forth in paragraph 1 of this Article was committed with respect to a report of utmost significance or where it resulted in grave consequences, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence, the perpetrator shall be punished for the offence set forth in paragraph 1 by a fine or a prison sentence for a term not exceeding one year, and



for the offence set forth in paragraph 2 by a prison sentence for a term from three months to three years.

### **Failure to Take Security Measures of a Military Unit**

#### **Article 466**

(1) A military commander who, within the scope of his competences, fails to take the measures prescribed, ordered or obviously necessary for the security of the unit, protection of life and health of people entrusted to him, security and maintenance of facilities, objects and instruments serving for combat readiness and for regular provisioning of food or military equipment, or for a timely and proper performance of fortifying works or provision of security to the facilities entrusted to him, thereby endangering the life of people or seriously threatening the health of people or property exceeding forty thousand euro shall be punished by a prison sentence for a term from six months to five years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in a serious bodily injury of a person or large-scale property damage or in other grave consequences, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding two years.

(5) Where the offence set forth in paragraph 4 of this Article resulted in the consequence set out in paragraph 2 of this Article, the perpetrator shall be punished by a prison sentence for a term from three months to three years, and where it resulted in the consequence set out in paragraph 3 of this Article, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Careless or Negligent Manufacture and Receiving of Weapons and Other Military Equipment**

#### **Article 467**

(1) A serviceman or another person entrusted with the management of the process of manufacture or another production process or their supervision in a business organisation or another legal entity catering to the needs of defence, who acting carelessly or negligently in the discharge of his duties, causes delays in the manufacture of weapons, ammunition, or other military equipment or non-compliance with quality requirements shall be punished by a prison sentence for a term from three months to three years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a serviceman or another person who, acting carelessly or negligently in the discharge of his duties, receives weapons or other military equipment that are not in compliance with the terms and conditions or the contract.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in grave consequences, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offences set forth in paragraphs 1 and 2 of this Article are committed through negligence, the perpetrator shall be punished by a fine or a prison sentence for a term not exceeding one year.

(5) Where the offence set forth in paragraph 4 of this Article resulted in the consequence set out in paragraph 3 of this Article, the perpetrator shall be punished by a prison sentence for a term from three months to three years.

## **Improper Care of Weapons with which One has been Entrusted**

### **Article 468**

(1) Whoever improperly retains possession of, safekeeps or handles weapons, ammunition or explosives with which they have been entrusted and which belong to a military unit or institution, thereby causing their large-scale damage, destruction or disappearance shall be punished by a prison sentence for a term from three months to three years.

(2) Manager of a depot of weapons, ammunition, explosives and other instruments of combat who fails to take measures for their security or maintenance thereby causing large-scale damage, destruction or disappearance of such instruments of combat shall be punished by a prison sentence for a term from six months to five years.

(3) Where the offence set forth in paragraph 2 of this Article resulted in large-scale property damage, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(4) Where the offence set forth in paragraphs 1 and 2 of this Article is committed through negligence the perpetrator shall be punished by a fine or a prison sentence for up to two years.

(5) Where the offence set forth in paragraph 4 of this Article resulted in the consequence set out in paragraph 3 of this Article, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

## **Unlawful Disposal of Weapons with which One has been Entrusted**

### **Article 469**

Whoever misappropriates, appropriates, pawns, hands over to another person for his use, or who damages or destroys weapons, ammunition or explosives which were entrusted to him for his use and which serve for defence needs shall be punished by a prison sentence for a term from three months to five years.

## **Theft of Weapons and Parts of Instruments of Combat**

### **Article 470**

(1) Whoever steals weapons, ammunition, explosives, instrument of combat or part of an instrument of combat serving for defence needs shall be punished by a prison sentence for a term from six months to five years.

(2) Where the value of items set out in paragraph 1 of this Article exceeds three thousand euro or where the theft was committed by breaking or entering into locked buildings, rooms, safes, cabinets or other closed premises, or where it was committed by several persons who conspired to commit a theft, or where it was committed in a particularly dangerous or impudent manner, or by a person who had on him a weapon or a dangerous tool for attack or defence, or during a fire, flood, earthquake or another accident, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

(3) Where the value of articles set out in paragraph 1 of this Article exceeds thirty thousand euro, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

## **Disclosure of Military Secrets**

### **Article 471**

**-Deleted-**

## **Trespass on Military Facilities**

### **Article 472**

**-Deleted-**

## **Punishment for Criminal Offences Committed during State of War, Armed Conflict and State of Emergency**

### **Article 473**

(1) Where the criminal offence set out in Articles 450, para.1, 455, paragraphs 1 and 2, 456, paragraphs 1 and 3, 457, paragraphs 1 and 7, 458, 459, 460, paragraphs 1 and 2, 462, paragraph 1, 463, paragraphs 1 and 4, 465, 466, paragraphs 1 and 4, 467, paragraphs 1, 2 and 5, 468, paragraphs 1, 2 and 5, 469 and 470, para. 1 of this Code was committed during a state of war, armed conflict or state of emergency, its perpetrator shall be punished by a prison sentence for a term from two to ten years.

(2) Where the criminal offence set out in Articles 450, paragraphs 2 to 4, 455, para. 2, 456, paragraph 2, 460, paragraphs 3 and 4, 462, paragraph 2, 463, paragraph 2, 466, paragraphs 2 and 5, 467, paragraph 3, 468, paragraph 3, 470 paragraphs 2 and 3 of this Article was committed in time of war, armed conflict or state of emergency its perpetrator shall be punished by a prison sentence for a term of three to fifteen years.

(3) Where the criminal offence set out in Articles 463, paragraph 3 and 466, paragraph 3 of this Code is committed during a state of war, armed conflict or state of emergency its perpetrator shall be punished by a prison sentence for a minimum term of ten years.

## **Failure to Fulfil a Duty during a Military Mobilisation**

### **Article 474**

(1) A serviceman or a public official who during a military mobilisation, in time of war, armed conflict or state of emergency, contrary to his duty, fails to ensure the reception, deployment and accommodation of mobilized manpower, means of transport and other instruments, or fails to ensure the provisions for mobilized manpower and livestock, or fails to perform any other duty in relation to mobilisation, which results or could have resulted in detrimental consequences shall be punished by a prison sentence for a term from one to five years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in grave consequences, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

(3) Where the offence set forth in paragraph 1 of this Article is committed through negligence, the perpetrator shall be punished by a prison sentence for a term not exceeding three years.

(4) Where the offence set forth in paragraph 3 of this Article resulted in a grave consequence, the perpetrator shall be punished by a prison sentence for a term from three months to five years.

## **Undermining Military and Defence Power**

### **Article 475**

(1) Whoever destroys, makes unusable or enables the passing into enemy hands of defence installations, defence facilities, position, weapons and other military and defence instruments, a vessel or an aircraft or who surrenders the unit to the enemy without combat or before exhausting all instruments of defence, or who hinders or otherwise obstructs military or defence measures shall be punished by a prison sentence for a term from three to fifteen years.

(2) Whoever commits an offence set forth in paragraph 1 of this Article with the intention of assisting the enemy shall be punished by a prison sentence for a term from five to fifteen years.

(3) Whoever prepares for the commission of offence set forth in paragraphs 1 and 2 of this Article shall be punished by a prison sentence for a term from one to six years.

(4) Where the offences set forth in paragraph 1 of this Article are committed through negligence, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(5) Where the offence set forth in paragraphs 1 to 2 of this Article results in the death of one or more persons, danger to life of people, brutal violence or widespread devastation or danger to the security, economic or military power of the country, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

### **Preventing Fight against the Enemy**

#### **Article 476**

(1) Whoever in time of war or armed conflict prevents citizens of Montenegro or citizens of its allies from fighting the enemy shall be punished by a prison sentence for a term from five to fifteen years.

(2) Whoever in time of war or armed conflict dissuades citizens of Montenegro or citizens of its allies from fighting the enemy by propaganda activities or otherwise shall be punished by a prison sentence for a term from one to eight years.

### **Defection and Surrender to the Enemy**

#### **Article 477**

(1) A serviceman who in time of war or armed conflict defects to the enemy force shall be punished by a prison sentence for a minimum term of ten years or a long-term prison sentence.

(2) A serviceman who in time of war or armed conflict surrenders to the enemy before having exhausted all defence options shall be punished by a prison sentence for a term from two to ten years.

### **Service in the Enemy's Military**

#### **Article 478**

(1) A citizen of Montenegro who in time of war or armed conflict serves in the enemy's military or other hostile armed formations, or takes part in a war or armed conflict as a combatant against Montenegro and its allies shall be punished by a prison sentence for a term from three to fifteen years.

(2) Whoever recruits citizens of Montenegro to serve in the enemy's military or other hostile armed formations or to participate in a war or armed conflict against Montenegro or its allies shall be punished by a prison sentence for a term from five to fifteen years.

### **Aiding the Enemy**

#### **Article 479**

(1) A citizen of Montenegro who in time of war or armed conflict aids the enemy in requisition, taking away of food or other property or in taking any kind of coercive measures against the population shall be punished by a prison sentence for a term from two to ten years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a citizen of Montenegro who maintains political and economic cooperation with the enemy in time of war.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article results in the death of one or more persons, danger to life of people, brutal violence or widespread devastation or danger to the security, economic or military power of the country, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

## **Non-performance and Abandonment of a Duty during Combat**

### **Article 480**

(1) A serviceman who during combat or immediately before combat, fails to discharge his duty thereby causing detrimental consequences to the military unit or combat situation shall be punished by a prison sentence for a term from two to ten years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on a serviceman who during combat or immediately before combat abandons his duty of his own free will or fraudulently.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in grave consequences, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

## **Abandonment of a Post Contrary to an Order**

### **Article 481**

(1) A military commander who contrary to an order abandons his post with the unit entrusted to him before having exhausted all options for defence shall be punished by a prison sentence for a term from two to twelve years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in grave consequences, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

## **Early Abandonment of a Damaged Ship or Aircraft**

### **Article 482**

(1) A commander of a war ship who in time of war or armed conflict abandons the damaged ship before having fulfilled his duty under regulations governing ship service shall be punished by a prison sentence for a term from two to ten years.

(2) A member of a war ship crew who in time of war or armed conflict abandons the damaged ship before the commander issues an order for abandonment, or a member of a crew of a military aircraft who in time of war or armed conflict abandons the damaged military aircraft before having fulfilled his duty under regulations governing aviation and usage of aircraft shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in grave consequences, the perpetrator shall be punished for the offence set forth in paragraph 1 of this Article by a prison sentence for a minimum term of ten years, and for the offence set forth in paragraph 2 of this Article by a prison sentence for a term from two to ten years.

## **Weakening of Combat Morale**

### **Article 483**

(1) Whoever weakens the combat morale in a unit or harms the combat situation immediately before or during combat by provoking dissatisfaction among servicemen, spreading disquieting news, escaping, throwing away arms or ammunition, causing or spreading fear or otherwise, shall be punished by a prison sentence for a term from two to twelve years.

(2) A military commander who fails to take the necessary measures against a subordinate or a junior who during combat or immediately prior to combat spreads fear among soldiers or otherwise weakens the combat morale of the unit or causes harm to the combat situation, shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article resulted in grave consequences, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

### **Trespass on a Military Facility**

#### **Article 483a**

(1) Whoever trespasses on a military facility or makes sketches or drawings of military facilities or instruments of combat or takes photos of them or otherwise records them, or publishes recordings knowing it is prohibited, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article was committed during a state of war, armed conflict or state of emergency its perpetrator shall be punished by a prison sentence for a term from one to eight years.

### **Failure to Report to Military Bodies**

#### **Article 484**

(1) A serviceman who in time of war, armed conflict or state of emergency fails to inform the superior, senior or military command about the event that obviously requires urgent military measures to be taken, shall be punished by a prison sentence for a term not exceeding three years.

(2) Where the offence set forth in paragraph 1 of this Article resulted in grave consequences, the perpetrator shall be punished by a prison sentence for a term from two to ten years.

### **Criminal Offences Committed following Orders of Superiors**

#### **Article 485**

A subordinate who commits a criminal offence related to official duty following the order of a superior shall not be punished, unless the order was related to the commission of a criminal offence punishable by a penalty exceeding five years in prison, and the subordinate knew that acting upon the order constitutes a criminal offence.

## **TITLE THIRTY-SEVEN**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 486**

Where prior to entry into force of this Code a juvenile received a correctional measure of direct supervision in another family, the court which tried the juvenile in the first instance shall replace that measure by another statutory measure provided that in terms of its type or duration it is not more severe than the measure previously imposed.

#### **Article 487**

After the date when this Code begins to apply, all criminal law provisions contained in other laws which are in contravention to this Code shall be repealed.

**Corrigendum - 13/2004-7.**

#### **Article 488**

This Code shall enter into force on the eighth day following that of its publication in the Official Gazette of the Republic of Montenegro, and it shall apply three months after its entry into force.