

# **CRIMINAL CODE**

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## **GENERAL PART**

### **TITLE ONE**

#### **GENERAL PROVISIONS**

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

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

Protection of persons and other fundamental social values constitutes the basis and framework for defining what acts constitute statutory criminal offences, for prescribing criminal sanctions and for their application, to the extent necessary for the suppression of these offences.

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

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

A punishment or other criminal sanction may only be imposed for an act which constituted a statutory criminal offence before the time of commission and for which punishment was authorized 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: punishments, 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 for which guilt was determined.

##### **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 even when the act committed is not established 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 shall be considered to have been committed at a time when the principal acted or was obliged to act, irrespective of when the consequence of that act occurred.

(2) An accomplice shall be considered to have committed a criminal offence at a time when he acted or was obliged to act.

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

## **Article 8**

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

(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-defense**

### **Article 10**

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

(2) Legitimate self-defense is such defense which is absolutely necessary for one to defend his good and good of another person from a concurrent or imminent unlawful attack.

(3) Where a perpetrator exceeded the limits of legitimate self-defense, he may receive a lighter punishment, and where the use of excessive power was caused by strong excitement or fear due to an assault, punishment may be remitted.

## **Extreme Necessity**

### **Article 11**

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

(2) Extreme necessity is a condition under which a perpetrator committed an act to eliminate concurrent or imminent danger to his good or good of another person which he did not cause and which could not have been eliminated in any other manner, provided that the harm caused thereby does not exceed the harm threatened.

(3) Where a perpetrator caused danger by negligence, or where he exceeded the limits of extreme necessity, he may receive a lighter punishment, and where he exceeded the limits under particularly mitigating circumstances, punishment may be remitted.

(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) If a perpetrator committed a criminal offence to eliminate danger to his good or good of another person and where such danger was represented by either force which is not absolute or a threat, the perpetrator shall be subject to the provisions of Art.11 hereof *mutatis mutandum*, and the force and threat shall be considered to be a danger which he did not cause.

(3) If a perpetrator committed a criminal offence under force or threat, where the conditions referred to in paras 1 and 2 hereof are not met, the perpetrator thereof may receive a lighter punishment, and where such an offence was committed under particularly mitigating circumstances, punishment may be remitted.

(4) In the cases referred to in paras 1 and 2 hereof, where the person who was under force or threat is not considered to be the principal of that criminal offence, then the person who applied force or threat shall be considered to be the principal.

## **Culpability**

### **Article 13**

(1) Considered to be guilty of a criminal offence shall be a perpetrator who is of sound mind and who acted with wrongful intent, and was aware or was obliged to be aware or could have been aware that his act was prohibited.

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

## **Mental Capacity**

### **Article 14**

(1) A perpetrator shall be considered to have been mentally incapacitated where at the time of commission of an unlawful act which constitutes a criminal offence he was unable to understand the effects 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 substantially diminished due to any of the conditions referred to in para. 1 hereof (significantly reduced mental capacity) may receive a lighter punishment.

(3) The culpability of a perpetrator who due to the use of alcohol, drugs or other circumstances brought himself to a state in which he could not understand the effects of

his acts or control his actions shall be determined based on the time immediately preceding such state.

(4) A perpetrator who under the circumstances referred to in para. 3 hereof committed a criminal offence in the state of significantly reduced mental capacity may not receive a lighter punishment.

## **Wrongful Intent**

### **Article 15**

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

## **Negligence**

### **Article 16**

A criminal offence shall be considered to have been committed by negligence when the perpetrator was aware that his action may result in an offence but carelessly assumed that it would not occur or that he could prevent it if it occurred, or when he was not aware that with his act he may commit an offence 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 this possibility.

## **Liability for Severe Consequence**

### **Article 17**

When a criminal offence resulted in a severe consequence for which law provides for a more severe punishment, the perpetrator may receive such more severe punishment where with respect to that consequence he acted with negligence, but also if he acted with wrongful intent provided that the act committed does not contain elements of another criminal offence.

## **Error of Fact**

### **Article 18**

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

(2) An irreparable error of fact exists where a perpetrator was not obliged to avoid and could not have avoided the error with respect to a factual circumstance

regarded as an element of crime or with respect to a factual circumstance which, had it existed, would have made the act lawful.

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

### **Error of Law**

#### **Article 19**

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

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

(3) Where a perpetrator was not aware that the act was prohibited but was obliged to know or could have known it was prohibited, he may receive a lighter punishment.

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

### **Attempt**

#### **Article 20**

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

(2) Also considered to be the commencement of a crime is the use of a specific tool or the application of a specific method of commission provided that they are defined by law as elements of the crime.

(3) A perpetrator shall be punished for an attempt by the punishment laid down for the criminal offence, but may also receive a lighter punishment.

### **Inappropriate Attempt**

#### **Article 21**

Where a perpetrator attempted to commit a criminal offence with an inappropriate tool or against an inappropriate object punishment may be remitted.

### **Voluntary Abandonment**

### **Article 22**

(1) Where a perpetrator attempted to commit a criminal offence but has voluntarily abandoned its commission punishment may be remitted.

(2) Where a perpetrator voluntarily abandoned the commission of a criminal offence, he shall receive punishment for the acts that constitute another separate criminal offence which is not covered by the criminal offence that the perpetrator abandoned.

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

### **Principal and Co-principal**

#### **Article 23**

(1) A principal shall be a person who commits a criminal offence himself or a person who carries out the crime through another person provided that this other person can not be considered to be the principal.

(2) Where several persons jointly take part in the commission of a crime with wrongful intent or by negligence, or where they follow their prior arrangement and jointly act with wrongful intent and thus make a significant contribution to the commission of the criminal offence, each person shall receive a punishment prescribed for the crime in question.

### **Instigation**

#### **Article 24**

(1) Anyone who acts with wrongful intent to instigate another person to commit a criminal offence shall receive a punishment as if he committed the crime by himself.

(2) Anyone who acts with wrongful intent to instigate another person to commit a criminal offence which carries a five year prison term or a more severe punishment but does not even attempt commission shall receive the punishment laid down by law for the attempted criminal offence.

### **Aiding**

#### **Article 25**

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

(2) The following, in particular, shall be considered as aiding in the commission of a criminal offence: giving counsel or instructions on how to commit the crime, supplying the perpetrator with the means for commission of the crime, creating

conditions or removing obstacles to the commission of crime as well as promising one prior to the commission to conceal the crime, a perpetrator, the means by which the crime was committed, any traces of the crime, or the proceeds of crime.

### **Limits of Liability and Punishment of Accomplices**

#### **Article 26**

(1) Co-principal liability is defined by his wrongful intent or negligence, and instigator and aider liability by their wrongful intent.

(2) Where a co-principal, instigator or an aider voluntarily prevented the commission of a criminal offence, punishment may be remitted.

(3) Personal relations, capacity and circumstances for which the law excludes culpability or allows for the remission of punishment and which serve as ground to qualify an offence as serious or minor, or have an impact on the punishment imposed, may apply only to the principal, co-principal, instigator or aider with whom such relations, capacity and circumstances exist.

### **Punishment of Instigator and Aider for Attempt and for Minor Criminal Offence**

#### **Article 27**

(1) Where the commission remains incomplete, the instigator and aider shall receive a punishment for an attempt.

(2) Where the principal 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 punishment for the criminal offence committed.

(3) The provision of para. 2 hereof shall not apply if the instigator would receive a more severe punishment under Art.24, para. 2, hereof.

### **Special Provisions on Liability for Criminal Offences Committed through Media**

#### **Liability of Editor-in-chief**

#### **Article 28**

(1) Liability for criminal offences committed through media shall be borne by the editor-in-chief or a person replacing him at the time of publication of the information provided that:

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



- 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) An editor-in-chief or a person replacing him shall not be liable if for justified reasons he had no knowledge of the circumstances referred to in para. 1, subparagraphs 1 through 3 hereof.

### **Liability of Publisher, Printing-entity and Producer**

#### **Article 29**

(1) Provided that the requirements referred to in Art.28 above are met, liability shall be borne by the following:

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, then liability shall be borne by the printing-entity which had knowledge of it,

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, videos or other similar means of communication intended for wider audience.

(2) Where the publisher, printing-entity or producer is a legal person or a state authority, liability shall be borne by the officer responsible for publishing, printing or production.

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

#### **Article 30**

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

## **5. Criminal Liability of Legal Persons**

#### **Article 31**

(1) Criminal liability of legal persons and sanctions to be applied thereto shall be laid down by law.

### **TITLE THREE**

### **PUNISHMENT**

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

### **Purpose of Punishment**

#### **Article 32**

Within the general purpose of criminal sanctions (Art.4, para. 2), the purpose of a punishment shall be to:

- 1) prevent a perpetrator from commission of 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 emphasize that everyone has a duty to abide by law;
- 4) strengthen morality and promote social responsibility.

### **Types of Punishments**

#### **Article 33**

Perpetrators may receive the following punishments:

- 1) forty-year prison term;
- 2) prison term;
- 3) fine;
- 4) community work.

### **Principal and Accessory Punishments**

#### **Article 34**

(1) A forty-year prison term, a prison term and community work may be imposed only as principal punishments.

(2) A fine may be imposed as both a principal and accessory punishment.

(3) Where a single criminal offence carries several punishments, only one of them may be imposed as the principal punishment.

### **Forty-year Prison Term**

#### **Article 35**

(1) A forty-year prison term may be prescribed for the most serious criminal offences provided that it is not prescribed as the only punishment for a specific criminal offence.

(2) A forty-year prison term may not be imposed on the following:

- 1) a person who at the time of commission of a criminal offence is not 21;
- 2) a person who at the time of commission of a criminal offence is of significantly reduced mental capacity (Art.14, para. 2);
- 3) a person who attempted to commit a criminal offence.

## **Prison Term**

### **Article 36**

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

(2) The prison term referred to in para. 1 hereof shall be imposed in full years and months, and terms up to six months shall be imposed also in days.

## **Parole**

### **Article 37**

(1) A prisoner who has served two thirds or, exceptionally, has served a half of his prison term or his forty year prison term may be released on parole provided that during his prison term he has improved his behaviour to an extent that it can be reasonably expected that his behaviour outside of prison will be good and, in particular, that he will not reoffend during his service of the remainder of the punishment. In deciding whether a prisoner meets the requirements for parole, due consideration shall be given to his conduct during the service in prison, his fulfillment of work obligations, which is assessed with respect to his capacity, as well as to other circumstances that indicate that the purpose of the punishment has been achieved.

(2) The decision granting a prisoner parole may order that he fulfills an obligation set by law.

(3) In the case referred to in para. 1 hereof, the prisoner shall be considered to have served his punishment provided that the parole is not revoked.

## **Revocation of Parole**

### **Article 38**

(1) Parole shall be revoked by court where during his parole the convicted person commits one or more criminal offences that carry a prison term over one year, or where he omits to fulfill an obligation ordered by law.

(2) Parole may be revoked by court if the person on parole commits one or more criminal offences which carry a prison term up to one year. In deciding whether to

revoke parole, the court shall consider in particular any links between the criminal offences committed, their respective motives and other circumstances which may show that revocation of parole is justified.

(3) The provisions of paras 1 and 2 hereof 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 punishment by applying the provisions of Articles 48 and 50, para. 2 hereof and shall consider previously imposed punishment as already established. Part of the punishment that the convicted person has served under the previous conviction shall be included in the new punishment, while the time spent on parole shall not be included.

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

(6) In the cases referred to in paras 1 through 3 hereof, the parole may be revoked not later than within two years of the date when the parole expired.

## **Fine**

### **Article 39**

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

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

1) up to two thousand euros for criminal offences punishable by a prison term up to three months;

2) from four hundred to four thousand euros for criminal offences punishable by a prison term up to six months;

3) from six hundred to eight thousand euros for criminal offences punishable by a prison term up to one year;

4) from eight hundred to sixteen thousand euros for criminal offences punishable by a prison term up to two years;

5) minimum one thousand two hundred euros for criminal offences punishable by a prison term up to four years;

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

(3) For criminal offences committed out of greed the fine as an accessory punishment 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 term or a fine, and the court imposes a prison term as the principal sentence.

(4) Where the court imposes a fine as the principal punishment and additionally imposes a fine as an accessory punishment, a single fine shall be imposed under the rules laid down in Art.48 hereof.

(5) The court ruling shall specify the term of payment which may not be shorter than fifteen or longer than three months. Where so justified, the court may allow the convicted person to pay the fine in installments, provided that the payment deadline is not longer than within one year.

(6) Where a convicted person does not pay a fine within the deadline set thereof, the court shall replace the fine by a prison term by substituting each twenty-five euro amount in his fine by one day of prison term, provided that the prison term does not exceed six months, and where a fine exceeding nine thousand euros is imposed, the prison term may not be longer than one year.

(7) Upon prior consent of the convicted person, an outstanding fine not exceeding two thousand euros may be substituted by community work and not by a prison term. Each twenty-five euro amount of his fine shall be substituted by eight hours of community work, provided that the community work does not exceed three hundred and sixty hours.

(8) Where the convicted person pays only part of the fine, the court shall substitute the remainder by a prison term on a pro rata basis, and where the convicted person pays the remainder of the fine, his service of the prison term shall be suspended.

(9) The fine may not be enforced in the event of death of the convicted person.

### **Amount of Daily Fine**

#### **Article 40**

(1) In the cases when it is possible to establish the perpetrator's assets and liabilities, the court may pronounce a fine in daily amounts.

(2) The number of daily fines may not be less than ten or more than three hundred and sixty. The number of daily fines to be imposed for the criminal offence committed shall be set in accordance with the general rules on fixing of punishment as laid down in Art.42 hereof.

(3) The amount of daily fine shall be determined by dividing the difference between the perpetrator's assets and liabilities in the previous calendar year by the number of days in a year, whereby the daily fine must be more than five and less than one thousand euros.

(4) The total amount of fine shall be calculated by the court by multiplying the number of daily fines by the amount of the daily fine.

(5) In determining the value of daily fines the court may request data from banks and 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 perpetrator's assets and liabilities, or where the perpetrator does not earn any income but is the owner of property or holder of property rights, the court shall use the available data and determine the amount of daily fine at its own discretion.

(7) The provisions of Art. 39, paras 3 through 9 hereof shall also apply when a fine is imposed in compliance with the above provisions.

## **Community Work**

### **Article 41**

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

(2) Community work may be imposed for minimum sixty and maximum three hundred and sixty hours to be served over a period of time not shorter than thirty days or longer than six months.

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

(4) Community work shall be considered to be any work which is beneficial for society, does not harm one's dignity, and is not done for any gain.

(5) In pronouncing this punishment, the court shall give due consideration to the type of the criminal offence committed and the perpetrator's personality.

(6) If a perpetrator omits to complete his community work, this punishment shall be replaced by a prison term, whereby each sixty hour period of community work initiated will be substituted by one month prison term.

## **2. Fixing of Punishment**

### **General Rules for Fixing Punishment**

#### **Article 42**

(1) The court shall fix the punishment for the perpetrator of a criminal offence within the statutory limits for that particular offence taking into account the purpose of punishment and giving due consideration to any circumstances which result in lighter or more severe punishment (mitigating and aggravating circumstances) as well as 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 history, his personal situation, 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) In fixing a fine the court shall give particular consideration to the perpetrator's financial situation.

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

## **Reoffending**

### **Article 43**

When fixing punishment for a perpetrator who has reoffended after he has served a punishment, been forgiven a punishment, had his punishment barred by the statute of limitations, or has had his punishment remitted after the deadline for revocation of parole has expired, or after he has been imposed judicial admonition, the court can take this as an aggravating circumstance while at the same time giving due consideration to the seriousness 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, as well as to the circumstances under which the offences were committed and how much time has passed since the earlier conviction or since the punishment imposed, forgiven or barred by the statute of limitations, since the remission of punishment, expiry of the deadline for revocation of an earlier suspended sentence or since the judicial admonition imposed.

## **Multiple Reoffending**

### **Article 44**

(1) For a criminal offence which was committed with wrongful intent and which is punishable by a prison term, the court may impose a more severe punishment than the punishment provided for by law on condition that:

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

2) less than five years passed from his release from service of the previous punishment to the commission of the new criminal offence.

(2) The more severe punishment may be pronounced for maximum twice the amount of the punishment provided for by law, and for maximum twenty year prison term.

(3) In assessing whether to impose a more severe punishment than the punishment provided for by law, the court shall give due consideration in particular to the number of prior convictions, any relations 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 punishment in view of the purpose of punishment to be achieved.

## **Mitigation of Punishment**

### **Article 45**

The court may impose on a perpetrator a punishment below the limit laid down by law or a lighter punishment provided that:

- 1) a lighter punishment is provided for by law;
- 2) remission of punishment is provided for by law, but the punishment does not get remitted by court;
- 3) it is established that there were particularly mitigating circumstances and it is assessed that a mitigated punishment will be sufficient to achieve the purpose of punishment.

## **Limits of Mitigation of Punishment**

### **Article 46**

(1) Where the requirements for mitigation of punishment referred to in Art.45 of this Code are met, the court shall impose a lighter punishment, subject to the following limits:

- 1) if the criminal offence carries a minimum prison term of five years or longer, the punishment may be mitigated up to two year prison term;
- 2) if the criminal offence carries a minimum prison term of three years or longer, the punishment may be mitigated up to one year prison term;
- 3) if the criminal offence carries a minimum prison term of two years, the punishment may be mitigated up to six month prison term;
- 4) if the criminal offence carries a minimum prison term of one year, the punishment may be mitigated up to three month prison term;
- 5) if the criminal offence carries a minimum prison term under one year, the punishment may be mitigated up to thirty day prison term;
- 6) if the criminal offence carries a prison term for which minimum term is not specified, the punishment may be replaced by a fine;
- 7) if the criminal offence carries a fine for which the lowest amount is specified, the punishment may be mitigated to six hundred euro.

(2) When the court is authorized to remit punishment to a perpetrator, the punishment may be mitigated without taking into consideration the limits prescribed for mitigation of punishment.

## **Remission of Punishment**

### **Article 47**

(1) Punishment may be remitted by court only where so explicitly provided for by law.

(2) Punishment may also be remitted by court where a perpetrator committed an offence by negligence and where the consequences of that offence affect the perpetrator to an extent that makes it reasonable to believe that imposition of punishment would not serve its purpose.



(3) Punishment may also be remitted by court where a perpetrator committed a criminal offence punishable by maximum five year prison term provided that after the commission but before he learned he was uncovered he had eliminated the consequences of the offence or had compensated the damage inflicted by the criminal offence.

## **Concurrence of Criminal Offences**

### **Article 48**

(1) Where a perpetrator by one or more acts committed several criminal offences for which he is tried at the same time, the court shall first pronounce the punishment for each of the respective criminal offences, and then impose a cumulative punishment for all the offences.

(2) A cumulative punishment shall be imposed by the court subject to the following rules:

1) where for one of the concurrent criminal offences the court pronounced a forty year prison term, the court shall impose that punishment only;

2) where for concurrent criminal offences the court pronounced prison terms, the court shall increase the most severe punishment fixed, provided that the cumulative punishment is shorter than the sum of individual punishments fixed and that it does not exceed twenty year prison term;

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

4) where for concurrent criminal offences the court pronounced only fines, the court shall impose a cumulative fine which amounts to the sum of individual fines provided that it does not exceed twenty thousand euros, or a hundred thousand euros where one or more criminal offences were committed out of greed; and where the court pronounced only daily fines, they may not exceed the amount of three hundred and sixty thousand euros;

5) where for concurrent criminal offences the court pronounced community work as the only punishment, the court shall impose a cumulative punishment of community work which amounts to the sum of hours of work to be served, provided that the punishment does not exceed three hundred and sixty hours and that the period within which the community work must be done does not exceed six months;

6) where for some concurrent criminal offences the court pronounced prison terms and fines for other concurrent criminal offences, the court shall impose a cumulative prison term and a single fine, under the provisions of subparagraphs 2 through 4 of this paragraph.

(3) The court shall impose a fine as an accessory punishment provided that it was pronounced as punishment for at least one of the concurrent criminal offences, and where the court pronounced more than one fine, it shall impose a cumulative fine under the provision of para. 2, subpara. 4 hereof.

(4) Where the court pronounced prison terms and juvenile prison terms for concurrent criminal offences, the court shall impose a cumulative prison term under the rules laid down in para. 2, subparagraph 2 hereof.

## **Continuing Criminal Offence**

### **Article 49**

(1) A continuing criminal offence is composed of several criminal offences that are identical or of the same kind, were committed by the same perpetrator, and represent a whole because at least two of the following circumstances apply: the victim is the same, the object of offence is the same, the same situation or the same permanent relationship is used, the place or area of commission is the same, or the perpetrator's wrongful intent is the same.

(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 a continuing criminal offence.

(5) A continuing criminal offence may be punished by a more severe punishment than the punishment provided for by law provided that the continuing criminal offence consists of at least three criminal offences that meet the requirements referred to in para. 1 hereof.

(6) A more severe punishment may not exceed twice the punishment laid down by law or exceed a twenty year prison term.

(7) The criminal offence that is not included in the continuing criminal offence as set in the final judgment constitutes a separate criminal offence and makes part of a separate continuing criminal offence.

## **Fixing Punishment for Convicted Person**

### **Article 50**

(1) Where a convicted person is tried for a criminal offence committed before he started service of punishment as a result of a prior conviction, or is tried for a criminal offence committed during his service of a prison term or a juvenile prison term, the court shall impose a cumulative punishment for all the criminal offences pursuant to the provisions of Art.48 hereof and shall in so doing accept the previously imposed punishment as already pronounced. The punishment or part of punishment that the convicted person has served will be included in the prison term pronounced.

(2) Where a convicted person is tried for a criminal offence committed during his service of a prison term or a juvenile prison term, the court shall impose a punishment

irrespective of the previously imposed punishment if the purpose of punishment may not be achieved by applying the provisions of Art.48 hereof, taking into account the seriousness of the criminal offence and the part of earlier punishment not yet served.

(3) A convicted person who during his service of a prison term or a juvenile prison term commits a criminal offence which is punishable by law by either a fine or up to one year prison term shall receive a disciplinary punishment.

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

### **Article 51**

(1) The time spent in pre-trial detention, as well as any other deprivation of liberty in relation to the criminal offence shall be included in the imposed prison term, juvenile prison term, community work, or a fine.

(2) Where a criminal proceeding was conducted for several concurrent criminal offences and detention was not ordered for respective offences, the time spent in pre-trial detention shall be included in the imposed prison term, juvenile prison term, community work, or a fine for the criminal offence for which the accused person was convicted.

(3) The prison term or the fine that the convicted person served or paid for a misdemeanor or economic offence, as well as punishment or disciplinary measure of deprivation of liberty which he served for violation of military discipline shall be included in the punishment imposed for a criminal offence whose elements include the elements of a misdemeanor, economic offence, or violation of military discipline.

(4) In calculating an earlier punishment, equivalence shall apply among the following: a day of pre-trial detention, a day of deprivation of liberty, a day of juvenile prison term, a day or prison term, eight hours of community work and the fine of twenty-five euros.

## **TITLE FOUR**

### **WARNING MEASURES**

#### **1. Suspended Sentence and Judicial Admonition**

##### **Purpose of Suspended Sentence and Judicial Admonition**

### **Article 52**

(1) Warning measures shall be: suspended sentence and judicial admonition.

(2) Within the general purpose of criminal sanctions (Art.4, para. 2), the purpose of a suspended sentence and judicial admonition shall be to avoid imposition on the perpetrator of a punishment for minor criminal offences when that is considered not necessary for criminal law protection and when it is reasonable to expect that admonition, together with imminent punishment (suspended sentence) or an

admonition alone (judicial admonition), will have sufficient influence on the perpetrator to deter repeat offending.

## **Suspended Sentence**

### **Article 53**

(1) By pronouncing a suspended sentence the court pronounces a punishment and orders at the same time that such punishment shall not be enforced provided that the convicted person does not reoffend within a term set by the court for not shorter than one or longer than five years (probation term).

(2) The court may specify in the suspended sentence that the punishment shall be enforced if the convicted person does not return the pecuniary gain obtained through the commission of the criminal offence or does not compensate for the damage he caused by the commission of criminal offence or does not fulfill any other obligations provided for in criminal law provisions. The deadline by which these obligations must be fulfilled shall be set by the court within the probation term prescribed.

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

## **Conditions for Imposing Suspended Sentence**

### **Article 54**

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

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

(3) A suspended sentence may not be imposed unless more than five years have passed since the date of the finality of the judgment of conviction for an offence committed with wrongful intent. 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 personal history, his behaviour after the commission of the criminal offence, the degree of guilt and other circumstances under which the offence was committed.

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

## **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 convicted person commits one or more criminal offences and receives a prison term of two years or longer.

(2) Where during his probation term the convicted person commits one or more criminal offences and receives a prison term of less than two years or a fine, the court shall decide whether to revoke the suspended sentence after having reviewed all the circumstances of the offences committed and the perpetrator himself, and in particular the relatedness of committed criminal offences, their importance 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 punishment of more than two years in prison for criminal offences determined in the suspended sentence and for the new criminal offences (Art.54, para. 1).

(3) Where the court revokes a suspended sentence, it shall impose a cumulative prison term by applying the provisions of Art.48 hereof for both the previously committed and the new criminal offence by taking the punishment from the revoked suspended sentence as already imposed.

(4) Where the court does not revoke a suspended sentence, it can impose a suspended sentence or a punishment for the new criminal offence. A convicted person who receives a prison term for the new criminal offence shall not have the period served in prison included in the probation term pronounced 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 pronounce a cumulative punishment for both the earlier and the new criminal offence under the provisions of Art.48 hereof and shall specify a new probation term for minimum one and maximum five years counting from the date of finality of the new judgment. If the convicted person commits a criminal offence during his new probation term, the court shall revoke the suspended sentence and impose a prison term by applying the provision of para. 3 hereof.

### **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 establishes that the convicted 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 Art.55, para. 3 hereof shall apply.

(2) If the court does not revoke a suspended sentence, provision of Art.55, para. 4 hereof shall apply.

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

### **Article 57**

Where under the suspended sentence the convicted person is ordered to fulfill any of the obligations referred to in Art.53, para. 2 hereof, and where he omits to comply within the time limit provided for in the judgment, the court may, within the limits of probation term, extend the deadline for fulfilling the obligation or it may revoke the suspended sentence thereof and impose the punishment pronounced in the suspended sentence. If the court establishes that the convicted person may not fulfill the obligation for justified reasons, the court shall relieve him of the duty to comply or replace it by other appropriate obligation laid down by law.

### **Time-limits for Revocation of Suspended Sentence**

#### **Article 58**

(1) A suspended sentence may be revoked during the probation term. During this term, if a convicted person commits a criminal offence which entails a revocation of the suspended sentence, whereas it is determined by the judgment only after the expiry of the probation term, the suspended sentence may be revoked within maximum one year of the date the probation term expired.

(2) If a convicted person does not fulfill an obligation referred to in Art.53, para. 2 hereof within the time limit set, the court may order within maximum one year of the date when the probation term expired that the punishment pronounced in the suspended sentence be enforced.

### **Suspended Sentence with Protective Supervision**

#### **Article 59**

(1) The court may order that the perpetrator 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 includes the measures of assistance, care, supervision and protection, as laid down by law.

### **Conditions for Ordering Protective Supervision**

#### **Article 60**

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

(2) Protective supervision shall be ordered by the court in the judgment by which it imposes the suspended sentence and pronounces the measures of protective supervision, their duration, and manner for their implementation.

## **Obligations While under Protective Supervision**

### **Article 61**

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

- 1) reporting to a competent 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 propensities of the perpetrator;
- 4) fulfillment of the obligations to support family, care and bring up children and carry out 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 medical institution;
- 9) visiting particular professional and other counseling 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 crime.

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

### **Article 62**

When selecting the obligations referred to in Article 61 hereof and determining their duration, the court shall take into account in particular the age of perpetrator, his health condition, propensities and habits, motives for the commission of criminal offence, behaviour after commission of criminal offence, personal history, personal and family situation, conditions for fulfilling the obligations ordered as well as other circumstances which are related to the perpetrator'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 the measures of protective supervision 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, order cancellation of certain obligations or their replacement with other obligations.

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

### **Consequences of Noncompliance while under Protective Supervision**

#### **Article 64**

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

### **Judicial Admonition**

#### **Article 65**

(1) Judicial admonition may be imposed for criminal offences which carry a prison term of maximum one year or a fine and which were committed under such mitigating circumstances which render them particularly minor.

(2) For certain criminal offences and under the conditions provided for by law, a judicial admonition may be imposed even for the offences which carry a prison term not exceeding three years.

(3) Judicial admonition may be imposed by the court for several criminal offences committed in concurrence, provided that the conditions referred to in paras 1 and 2 above 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, consider in particular the personality of the perpetrator, his personal history, his behaviour after the commission of criminal offence, specifically his relationship towards the victim of crime, the degree of guilt and other circumstances under which the offence thereof was committed.

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



## **TITLE FIVE**

### **SECURITY MEASURES**

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

##### **Article 66**

Within the general purpose of criminal sanctions (Art.4, para. 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 perpetrator may receive any of the following security measures:

- 1) mandatory psychiatric treatment and placement in a medical institution;
- 2) mandatory psychiatric outpatient treatment;
- 3) mandatory medical treatment of drug addiction;
- 4) mandatory medical treatment of alcoholism;
- 5) disqualification from a profession, activity or duty;
- 6) driving prohibition;
- 7) confiscation of objects;
- 8) expulsion of a foreign national from the country;
- 9) publication of the judgment.

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

##### **Article 68**

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

(2) Mandatory psychiatric treatment and placement in a medical institution and mandatory psychiatric outpatient treatment are measures which are imposed as individual measures on a mentally incapacitated perpetrator. In addition to these measures, the court may order disqualification from a profession, activity or duty, driving prohibition and confiscation of objects.

(3) The measures referred to in para. 2 above may be imposed on a perpetrator whose mental capacity has been significantly diminished provided that he has already received a punishment or suspended sentence.

(4) Mandatory medical treatment of drug addiction, mandatory medical treatment of alcoholism, disqualification from a profession, activity or duty, driving prohibition, confiscation of objects and publication of the judgment may be imposed if the perpetrator has already received punishment, suspended sentence or judicial admonition or if his punishment has been remitted

(5) The measure of expulsion of a foreign national from the country may be imposed provided that the perpetrator has already received punishment or suspended sentence.

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

### **Mandatory Psychiatric Treatment and Placement in Medical Institution**

#### **Article 69**

(1) The court shall impose mandatory psychiatric treatment and placement in an appropriate medical institution on a perpetrator who committed a criminal offence in the state of significantly diminished mental capacity if it establishes that in consideration of the committed offence 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 referred to in para. 1 above are met, the court shall order mandatory treatment and placement in a medical institution to a perpetrator who while in the state of mental incapacity committed an unlawful act that constitutes a criminal offence by law.

(3) The court shall suspend the measure referred to in paras 1 and 2 above once it has established that the need for treatment and confinement of the perpetrator in a medical institution has ceased.

(4) The measure referred to in para. 1 above that is imposed together with a prison term may last longer than the imposed sentence.

(5) The time spent in a medical institution by the perpetrator who committed a criminal offence in the state of significantly diminished mental capacity and who has been punished by prison term shall be included in the prison term imposed. If the period spent in a medical institution is shorter than the duration of the punishment imposed, once the security measure ends, the court shall order that the convicted person serves the remainder of punishment or be released on parole. In taking a decision on the release on parole, the court shall give due consideration in particular to the success of the treatment, his health condition, the time spent in a medical institution and the remainder of punishment not yet served, in addition to the conditions referred to in Art.37 hereof.

### **Mandatory Outpatient Psychiatric Treatment**

## **Article 70**

(1) A perpetrator who in the state of mental incapacity committed an unlawful act which constitutes a criminal offence by law shall be imposed the measure of mandatory outpatient psychiatric treatment provided that the court determines that there is serious threat that the perpetrator may commit an unlawful act which constitutes a criminal offence by law and that in order to eliminate this threat his outpatient treatment will be sufficient.

(2) The measure referred to in para. 1 above may be imposed also on a mentally incapacitated perpetrator on whom mandatory psychiatric treatment and placement in an appropriate medical institution have been imposed when the court establishes on the basis of the results of such treatment that his placement and treatment in that institution is no longer needed, and that his outpatient treatment would suffice.

(3) Under the conditions referred to in para. 1 above, the court may also impose mandatory outpatient psychiatric treatment on a perpetrator whose mental capacity was significantly diminished provided that he was imposed a suspended sentence or was released on parole pursuant to Art.69, para. 5 hereof.

(4) Mandatory outpatient psychiatric treatment may be occasionally conducted in an appropriate medical institution if this is necessary in view of a more successful treatment thereof, whereby the periodic treatment in a medical institution may not last longer than fifteen days continuously, or longer than two months in total.

(5) Mandatory outpatient psychiatric treatment shall last as long as there is a need for the treatment, limited to three years.

(6) In the case referred to in paras 1 through 3 above, if the perpetrator does not undergo outpatient treatment, or terminates it of his own free will, or if despite treatment thereof there is danger that he will commit again an unlawful act which constitutes a criminal offence by law that may render his treatment and confinement in a relevant medical institution necessary, the court may impose mandatory psychiatric treatment and confinement in such an institution.

## **Mandatory Medical Treatment of Drug Addiction**

### **Article 71**

(1) The court shall impose mandatory treatment on a perpetrator who committed a criminal offence due to his addiction to narcotics and where there is a serious danger that he may reoffend due to this addiction.

(2) The measure referred to in para. 1 above shall be enforced in an institution for the enforcement of the punishment or in an appropriate medical or other specialized institution and shall last for as long as there is a need for treatment, limited to three years.

(3) When the measure referred to in para. 1 above is imposed in addition to a prison term, it may last longer than the imposed sentence, limited to three years.

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

(5) Where the measure referred to in para. 1 above is imposed in addition to a fine, a suspended sentence, judicial admonition or remission of penalty, it shall be enforced outside of any confinement and may not exceed three years.

(6) If for no justified reason a perpetrator decides not to undergo outpatient treatment or decides to leave the treatment of his free will, the court shall order the coercive enforcement of the measure in an appropriate medical or other specialized institution.

## **Mandatory Medical Treatment of Alcoholism**

### **Article 72**

(1) The court shall impose a mandatory medical treatment on a perpetrator who committed a criminal offence due to his addiction to alcohol and where there is a serious danger that he might reoffend due to this addiction.

(2) The measure referred to in para. 1 above shall be enforced in an institution for enforcement of prison sentences or in an appropriate medical or other specialized institution and shall last for as long as there is a need for treatment, limited to the duration of the prison term imposed.

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

(4) Where the measure referred to in para. 1 above is imposed in addition to a fine, suspended sentence, judicial admonition or remission of punishment, it shall be enforced out of confinement and be limited to two years.

(5) If for no justified reason a perpetrator does not undergo an outpatient treatment or leaves the treatment of his free will, the court shall order the coercive enforcement of the measure thereof in an appropriate medical or other specialized institution.

## **Disqualification from 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 taking care of that property, 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 referred to in para. 1 above, limited to minimum one and maximum ten years counting from the date of the final judgment, provided that the time spent in a prison or medical institution in which the security measure was enforced shall not be included in the term of this measure.

(3) If it imposes a suspended sentence, the court may order that the sentence be revoked if the perpetrator violates the prohibition thereof to engage in a profession, activity or duty.

## **Driving Prohibition**

### **Article 74**

(1) The perpetrator of a criminal offence against public traffic safety may receive the measure of driving prohibition.

(2) When imposing the measure referred to in para. 1 above, the court shall specify the type and category of vehicles that the prohibition applies to.

(3) The measure referred to in para. 1 above may be imposed where the court finds that the seriousness of the offence committed, the 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 term for which the measure referred to in para. 1 above will apply to a period from three months to five years counting from the date of the final judgment whereby the time served in a prison or institution where a security or a corrective measure was enforced may not be included in the term of this measure.

(5) The perpetrator of a criminal offence against public traffic safety which resulted in the death of one or more persons may receive the measure referred to in para. 1 above without time restriction (permanently) if he has previously received this security measure.

(6) Where the measure referred to in para. 1 above is imposed on a person who holds a foreign driver's license, the prohibition shall refer to driving on the territory of Montenegro.

(7) Where the court imposes a suspended sentence, the court may order that the sentence be revoked if the perpetrator violates the driving prohibition.

(8) A mandatory driving prohibition may be laid down by law.

## **Confiscation of Objects**

### **Article 75**

(1) The objects which were used or intended for use in 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 referred to in para. 1 above may be confiscated even if they are not owned by the perpetrator if so required for reasons of security of people or property, or for moral reasons, but also where there is still a risk that they may be used for the commission of a criminal offence notwithstanding however the rights of third persons to claim damages from the perpetrator.

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

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

## **Expulsion of Foreigner National from the Country**

### **Article 76**

(1) A foreign national who committed a criminal offence may be expelled from the territory of Montenegro under a court judgment for a term from one to ten years, and where a foreign national is a repeat perpetrator, he may be expelled for good (Art.43).

(2) In deciding whether to impose the measure referred to in para. 1 above, the court shall give due consideration to the nature and seriousness of the offence committed, the motives out of which the criminal offence was committed, the manner in which it was committed, and any other circumstances that indicate why the foreign national should not be allowed to stay in Montenegro.

(3) The term of expulsion shall commence on the date of final judgment thereof, whereby the time spent in prison may not be included in the term for which the measure is imposed.

(4) The measure referred to in para. 1 above shall not be imposed against a perpetrator who enjoys protection under ratified international treaties.

### **Publication of the Judgment**

#### **Article 77**

(1) Where it renders a judgment of conviction for a criminal offence committed through media or a criminal offence which endangered life or health of humans, where the publication of the judgment would help eliminate or diminish such danger, the court may order that the judgment be published in whole or in part in the media or in some other appropriate manner, whereby the costs of such publication shall be borne by the convicted person.

(2) Mandatory publication of 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 within not longer than thirty days of the date of the final judgment.

### **Suspension of Security Measures by Court Decision**

#### **Article 78**

(1) The court may order suspension of enforcement of the security measures of disqualification from a profession, activity or duty and driving prohibition provided that three years have lapsed since the date their enforcement started.

(2) In deciding whether to order suspension of the security measures referred to in para. 1 above, the court shall give due consideration the convict's behaviour following the conviction, whether he has compensated for the damage inflicted by the criminal offence, whether he has returned the pecuniary gain obtained through the commission of the criminal offence as well as any other circumstances that may indicate it is justified to order suspension of the enforcement.

**TITLE SIX**  
**PROVISIONS ON JUVENILES**

**1. Basic Provisions**

**Applicability of Special Criminal Provisions to Juveniles**

**Article 79**

(1) The provisions contained in this Title shall apply to juvenile offenders, while other provisions of this Code shall apply unless otherwise provided for in this Title.

(2) Special provisions that are applicable to juvenile offenders shall also apply to adults under the conditions laid down by the provisions of this Title where such adults are tried for criminal offences that they committed as juveniles and, by way of an exception, where such adults committed the offence as young adults.

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

**Article 80**

A person who at the time of commission of an unlawful act which constitutes a criminal offence by law is younger than fourteen (child) may not be subject to criminal sanctions.

**Attendance Orders**

**Article 80a**

(1) A juvenile criminal offender may be subject to one or more attendance orders for a crime that carries a fine or up to five years in prison.

(2) An attendance order may be issued to a juvenile by either a court, at its own discretion, or at the proposal of a relevant public prosecutor.

(3) An attendance order may be issued only where the juvenile offender confesses to the crime and where he has an appropriate attitude to the criminal offence committed and to the victim of the crime.

**Purpose of Attendance Orders**

**Article 80b**

The purpose of attendance orders is to divert from criminal proceedings against a juvenile or to suspend a proceeding against a juvenile, as well as to use them as a means by which to encourage juvenile's proper development and help a juvenile develop a sense of personal responsibility in order to prevent repeat offending in the future.

## **Types of Attendance Orders**

### **Article 80c**

Attendance orders include a duty to:

- 1) settle with the victim and compensate for the damage, offer an apology, do the work, or take other action by which to eliminate, in whole or in part, the harmful consequences of the offence;
- 2) attend school or go to work regularly;
- 3) do humanitarian work, without remuneration, or take other action beneficial for the social care, local community, or environment protection;
- 4) undergo examination and a drug or alcohol addiction rehabilitation programme;
- 5) join an individual or group therapy in a health institution or counselling service.

## **Selection of Attendance Order**

### **Article 80d**

1) In selecting an attendance order, the relevant public prosecutor and the court, in accordance with their respective powers, shall take into consideration the entire interests of the juvenile and the victim, and shall in so doing make sure that the implementation of one or more attendance orders does not interfere with the juvenile's school or work obligations.

2) Attendance orders may be implemented for not longer than six months, in which period it can be replaced by another attendance order or be suspended.

(3) Selection and implementation of attendance orders shall be done in collaboration with the juvenile's parents, adoptive parents or guardians and the competent guardianship authority.

## **Application of Attendance Orders**

### **Article 80e**

Implementation of attendance orders referred to in Art.80c hereof shall be regulated by a separate secondary legislation.

## **Criminal Sanctions against Juveniles**



### **Article 81**

(1) A juvenile who at the time of commission of a criminal offence had reached fourteen years of age but had not reached sixteen years of age (a younger juvenile) may be imposed correctional measures only.

(2) A juvenile who at the time of commission of a criminal offence had reached sixteen years of age but had not reached eighteen years of age (an older juvenile) may be imposed correctional measures, and by exception, a juvenile prison term.

(3) Security measures may also apply to a juvenile under the conditions provided for in Art.109 hereof.

(4) A suspended sentence and a judicial admonition may not be imposed on a juvenile.

### **Purpose of Correctional Measures and Juvenile Prison**

### **Article 82**

Within the general purpose of criminal sanctions (Art.4, para. 2), the purpose of correctional measures and juvenile prison shall be to provide protection and support to juvenile criminal offenders by way of supervision, vocational education and development of a sense of personal responsibility in order to allow them to be educated, reformed, and properly developed. The purpose of a juvenile prison term is to exert positive influence on juvenile offenders to prevent repeat offending, as well as to deter other juveniles from criminal offending.

## ***2. Correctional Measures***

### **Types of Correctional Measures**

### **Article 83**

A juvenile criminal offender may receive the following correctional measures:

1) disciplinary measures: reprimand and referral to a juvenile correctional facility;

2) direct supervision measures: direct supervision by parents, adoptive parent or guardian; direct supervision by guardianship authority; and direct supervision combined with day treatment programme in an institution for personal and educational development of juveniles;

3) correctional facility care: referral to a community-based correctional facility referral to a correctional home, and referral to a special education and treatment facility.

### **Selection of Correctional Measure**

#### **Article 84**

In selecting a correctional measure, the court shall take into consideration the juvenile's age, maturity, other qualities, propensities, level of neglect in terms of their personal and educational development, motive for which the crime was committed, overall living environment before the commission, seriousness of the crime, whether the juvenile has previously received any correctional measures or sanctions and any other circumstances that may assist in the selection of the measure which best serves its purpose.

### **Imposition of Correctional Measures**

#### **Article 85**

(1) Disciplinary measures shall be imposed on a juvenile who need not be submitted to extended correctional measures and, particularly, if he committed a criminal offence out of recklessness or levity.

(2) Direct supervision measures shall be imposed on a juvenile if it appears necessary to submit him to extended measures of education, reformation or treatment with adequate supervision, but where it is not necessary to completely isolate him from his usual environment.

(3) Institutional measures shall be imposed on a juvenile where it appears necessary to submit him to extended measures of education, corrective training or treatment but also to isolation from his usual environment and where the court finds that the purpose of correctional measures may not be achieved by applying the measures referred to in paras 1 and 2 above. Institutional correctional measures shall last, subject to the limits laid down by this Code, only until the purpose provided for in Art.82 hereof has been achieved.

### **Reprimand**

#### **Article 86**

(1) Reprimand shall be imposed if it is considered sufficient to only reprimand a juvenile for a committed criminal offence.

(2) When imposing a reprimand, the court shall point to the wrongfulness of his act to the juvenile and inform him of the possibility that a more severe sanction be imposed if he commits a criminal offence again.

### **Referral to Juvenile Correctional Facility**

#### **Article 87**

(1) The court shall order referral to a juvenile correctional facility when it is needed to apply short-term measures in order to influence juvenile's personality and behaviour.

(2) The court shall refer a juvenile who has received the measure referred to in para. 1 above to a correctional facility for two hours twice a week, over a period lasting from eight to twelve weeks.

(3) In imposing this measure efforts will be made to make sure that the implementation of this measure does not interfere with the juvenile's school or work obligations.

(4) Together with the measure of referral to a juvenile correctional facility, the court may also order that the juvenile, following the service of this measure, be placed under direct supervision by his guardian.

### **Direct Supervision by Parents, Adoptive Parents or Guardian**

#### **Article 88**

(1) The measure of direct supervision by parents, adoptive parent or guardian shall be ordered by the court where the parents, adoptive parent or guardian are able to provide this supervision and where they can be reasonably expected to provide it.

(2) This measure may last from six months to two years, whereby the court shall have the duty to subsequently render the decision to cancel its implementation.

(3) When the court orders the measure referred to in para. 1 above, the court must give parents, adoptive parent and guardian the directions and order them certain duties which they need to undertake with a view to the juvenile's correctional education, medical treatment and elimination of any harmful influence.

(4) In pronouncing the measure referred to in para. 1 above, the court shall order the guardianship authority to supervise its enforcement and provide assistance to parents, adoptive parent or guardian.

### **Direct Supervision by Guardianship Authority**

#### **Article 89**

(1) Where the juvenile's parents, adoptive parent, or guardian are not capable of directly supervising him, he shall be placed under direct supervision by the guardianship authority.

(2) The correctional measure under para. 1 above shall last from six months to two years, with the court having the duty to subsequently render the decision on when to cancel its implementation.

(3) Throughout the implementation of the correctional measure under para. 1 above the juvenile shall continue to live with his parents or other persons supporting him, or with persons taking care of him, while the direct supervision over the juvenile is conducted by the public official from the guardianship authority appointed or by other professional support staff appointed by the guardianship authority.

(4) The guardianship authority shall oversee the juvenile's education, employment and make sure that the juvenile distances himself from any harmful environment, undergoes treatment and shall assist the juvenile in bringing order and stability to his living environment.

## **Direct Supervision Through a Day Treatment Programme in Juvenile Correctional Facility**

### **Article 90**

(1) The measure of direct supervision along with the duty to undergo day treatment programme in a juvenile correctional facility shall be imposed by the court where in addition to the correctional measure of direct supervision by juvenile's parent, adoptive parent, or guardian, or in addition to the correctional measure of direct supervision by juvenile's guardianship authority, there is a need to engage professionals working in an institution dealing with personal development and education of juveniles.

(2) This correctional measure, in addition to direct supervision by juvenile's parent, adoptive parent, or guardian or direct supervision by guardianship authority, includes an obligation for the juvenile to undergo a day treatment programme in a juvenile correctional facility.

(3) This measure is imposed for a term from six months to two years, with the court having the duty to render a subsequent decision on its termination.

(4) Throughout the implementation of this measure the juvenile shall continue to live with his parents or other persons supporting or taking care of him, whereby the direct supervision ordered by the court shall be conducted by the parents, adoptive parent or guardian or guardianship authority.

(5) The manner in which this measure is enforced shall be supervised by the guardianship authority.

## **Special Obligations along with Direct Supervision**

### **Article 91**

(1) In imposing any of the correctional measures of direct supervision, the court may order to the juvenile, if so needed for a more effective accomplishment of the purpose of the measure imposed, one or more of the following obligations:

- 1) to personally offer an apology to the victim;
- 2) to eliminate, within his own capacity, the damage inflicted by the criminal offence;
- 3) to go to school or work regularly;
- 4) to undergo vocational training appropriate for his capabilities and talents;
- 5) to refrain from alcohol and drug consumption or to undergo appropriate medical treatment;
- 6) to visit an appropriate medical institution or a counseling office and to follow the instructions received from these institutions;
- 7) to stay with another family which is willing to take him and which is capable of administering supervision over him.

(1) The court may order the juvenile a special obligation to do, without remuneration, humanitarian work, or take other action beneficial for the social care, local community, or environment protection. Such work may last thirty hours within a single month, and may be done within a time period not shorter than one month or longer than four months. In pronouncing this obligation, the court shall make sure this does not interfere with the juvenile's school or work obligations.

(3) A parent, adoptive parent or guardian of a juvenile who has received one or more obligations under para. 1 above shall inform the guardianship authority in time about any change or longer absence from his permanent or temporary residence.

(4) The obligations referred to in paras 1 and 2 above shall last for not longer than the term of the correctional measure, whereby the court shall have the authority to replace or revoke the obligations that it has ordered.

(5) When ordering the obligations referred to in para. 1 above, the court shall warn the juvenile, but also his parents, adoptive parent, or guardian, about the possibility that in case of noncompliance the measure of direct supervision may be replaced by another correctional measure.

### **Referral to Community-Based Correctional Facility**

#### **Article 92**

(1) The court shall impose the measure of referral to a community-based correctional facility when there is a need to provide a juvenile with permanent supervision by professionals.

(2) A juvenile shall stay in a community-based correctional facility for not shorter than six months or longer than two years, whereby the court shall have the authority to order suspension of the measure during its service.

### **Referral to Correctional Home**

#### **Article 93**

(1) The court shall impose the measure of referral to a correctional home for juvenile criminal offenders where a minor offender needs intensive reformatory training.

(2) When deciding whether to impose the measure referred to in para. 1 above, the court shall particularly take into account the degree of neglect of the juvenile, seriousness and nature of the criminal offence committed, and whether he has previously received any correctional measures or a juvenile prison term.

(3) A juvenile shall stay at correctional home for not shorter than one or longer than four years, whereby the court shall have the authority to order suspension of the measure during its service.

### **Release on Parole from Correctional Home**

#### **Article 94**

(1) A juvenile who has spent at least one year at correctional home may be released on parole where based on the outcome of correction and reformation process, it can be reasonably expected that he will not reoffend and that he will show good conduct in his living environment.

(2) The court may order that throughout the period of parole the juvenile be imposed a correctional measure of direct supervision.

(3) Release on parole may last for not longer than the legal term set for referral to a correctional home provided that the court has previously not suspended enforcement of the correctional measure or replaced it with another measure.

(4) If the juvenile commits a crime during his parole or if he does not fulfil the obligations ordered together with a direct supervision measure, the court may revoke his parole. The time spent on parole shall not be included in the term of the correctional measure imposed.

#### **Referral to Special Education and Treatment Facility**

#### **Article 95**

(1) A juvenile with a mental disability or a mental condition may receive, instead of the measure of referral to a community-based correctional facility or a correctional home, the measure of referral to a special education and treatment facility.

(2) The measure under para. 1 above shall be imposed instead of the security measure of mandatory psychiatric treatment or placement in a health care institution, provided that the special education and treatment facility may provide treatment and care and thus achieve the purpose of that security measure.

(3) Where the measure under para. 1 above was imposed instead of the measure of referral to a community-based correctional facility or of referral to a correctional home, the juvenile may stay in the special education and treatment facility for not longer than three years. If this measure was imposed instead of a security measure, the juvenile may stay in the special education facility for as long as it is necessary, and when he reaches the age of twenty-three, the enforcement of the measure will continue in an institution where the security measure of mandatory psychiatric treatment and the measure of care in a psychiatric institution are served.

(4) When a juvenile reaches the age of eighteen, the court shall examine whether there is a need for his further stay in this facility.

#### **Suspension of Enforcement and Replacement of Pronounced Correctional Measure by another Correctional Measure**

#### **Article 96**

(1) Where after the decision imposing a direct supervision measure or an institutional measure, there arise circumstances that were non-existent or not known at the time the decision was rendered, and where the decision may not be enforced due to

refusal by the juvenile, or his parents, adoptive parent or guardian to follow the order of the entity enforcing the measure, or where other circumstances envisaged by law should arise, where such circumstances might have a significant influence on the decision making process, the enforcement of the measure may be suspended or replaced by another direct supervision measure or an institutional measure.

(2) Save for the cases under para. 1 above and provided no other provisions are envisaged for respective correctional measures, a direct supervision measure or an institutional measure may, in view of the success of the reformation process, be suspended from enforcement, but may also be replaced by another measure that will better achieve the purpose of the correctional measures. The suspension of enforcement or replacement by another measure from within a set of institutional measures shall be subject to the following limitations:

- 1) the measure of referral to a community-based correctional facility may not be suspended within six months of its beginning, during which period it may be replaced by the measure of referral to a correctional home or a special education and treatment facility.
- 2) the measure of referral to a correctional home may not be suspended within one year, during which period it may be replaced with the measure of referral to a community-based correctional facility or a special education and treatment facility.

### **Re-examination of Correctional Measures**

#### **Article 97**

(1) Where more than two years have passed since the date of final decision ordering a correctional measure of direct supervision or an institutional measure, and where the enforcement has not yet started, the court shall re-examine the need to enforce the pronounced measure. In so doing, the court may decide that a previously ordered measure be enforced, be not enforced, or be replaced with another measure.

(2) The measure of referral to a juvenile correctional facility shall not be enforced if more than six months have elapsed from the date of final decision ordering this measure, and where its enforcement has not yet started.

### **Pronouncing Correctional Measure for Crimes in Concurrence**

#### **Article 98**

(1) Where a juvenile committed several crimes in concurrence, the court shall jointly assess all the criminal offences and impose one of the correctional measures.

(2) The court shall act in the manner described under para. 1 above even where after the imposition of the measure it is established that the juvenile committed another criminal offence either before or after its imposition.

### **Provision of Data on Correctional Measures Imposed**

### **Article 99**

(1) Data on imposed correctional measures may be disclosed solely to the court, public prosecutor, guardianship authority and institution in charge of the protection of juveniles, provided that the offender has not reached the age of twenty one.

(2) Data on imposed correctional measures may be disclosed to the authorities referred to in para. 1 above even after the offender reaches the age of twenty-one provided that such data refer to criminal offences punishable by a prison term of over five years.

### **3. Juvenile Prison**

#### **Punishment of Older Juveniles**

### **Article 100**

Subject to punishment may only be an older juvenile who committed a crime which by law carries a punishment of over five year prison term where for reason of a high degree of perpetrator's guilt and seriousness of the crime it would be manifestly ill-justified to pronounce a correctional measure.

#### **Juvenile Prison**

### **Article 101**

(1) A juvenile prison term may be set for not less than six months or longer than eight years. By exception, for crimes which carry a minimum prison term of not less than ten years the court may pronounce punishment of up to ten years in prison.

(2) A juvenile prison term shall be set in full months and years.

(3) Older juveniles shall serve their term in special juvenile penitentiary-correctional facilities where they may stay by the age of twenty-three. When they will not have served their punishment by that age, they will be referred to a penitentiary-correctional facility for adult offenders. By exception, a juvenile may be allowed to stay in a special juvenile penitentiary-correctional facility after he has reached the age of twenty-three where that is necessary to allow the juvenile to complete their education or vocational training, limited to the age of twenty-five.

#### **Release on Parole from Juvenile Prison**

### **Article 102**

(1) A person punished by a juvenile prison term may be released on parole provided that he has served one third of the punishment which is not shorter than one year, and where based on the success achieved during the reformation it may be



reasonably expected that the juvenile will behave well and will not reoffend. Release on parole may be ordered together with the direct supervision measure.

(2) Revocation of release on parole shall be subject to the provision of Art.38 hereof.

### **Fixing the Punishment of Juvenile Prison**

#### **Article 103**

(1) A court shall fix the punishment of juvenile prison within the statutory limits envisaged for such punishment, taking into account the very purpose of juvenile prison, as well as all circumstances that may make the punishment more or less severe and particularly the degree of the juvenile's mental development and the time needed for his education, reformation and vocational training.

(2) A court may not impose a juvenile prison term for a specific criminal offence for a period of time exceeding the prison term laid down by law for that offence, but shall not be bound by the minimum term laid down for that punishment

### **Fixing the Punishment of Juvenile Prison for Concurrent Criminal Offences**

#### **Article 104**

(1) Where an older juvenile commits several concurrent criminal offences, and the court establishes that one of these offences carries the punishment of juvenile prison, the court shall fix a cumulative punishment for all these offences within the limits laid down in Art.101 hereof.

(2) Where the court finds that for one of the concurrent criminal offences an older juvenile should be punished, and that for other criminal offences he should be imposed correctional measures, the court shall impose only a juvenile prison term for all concurrent criminal offences.

(3) The court shall proceed in the manner referred to in paras 1 or 2 above even when after it has imposed the punishment it establishes that the convicted person, either before or after the imposition, committed another criminal offence

### **Time Bar for the Enforcement of Juvenile Prison Term**

#### **Article 105**

The punishment of juvenile prison term may not be enforced where:

- 1) ten years have passed since the date of conviction to a juvenile prison term over five years;
- 2) five years have passed since the date of conviction to a juvenile prison term of over three years;

- 3) three years have passed since the date of conviction to a juvenile prison term up to three years.

### **Cessation of Correctional Measures due to Pronouncement of Juvenile Prison Term**

#### **Article 106**

Where within the term of a correctional measure the court imposes a juvenile prison term on an older juvenile, the correctional measure shall be terminated upon commencement of the prison term.

### **Effect of Punishment on Correctional Measures**

#### **Article 107**

Where within the term of a correctional measure the court imposes the punishment of a juvenile prison term on an adult (Art.110, para 3) or a prison term (Art.110, para 4) for one year or longer, the correctional measure shall be terminated upon commencement of the prison term, and where a prison term is imposed for a shorter term, the court shall specify in its judgment whether following the service of punishment the enforcement of the correctional measure will continue or whether that measure will be suspended.

### **Effect of Correctional Measures and of Juvenile Prison Term**

#### **Article 108**

(1) Correctional measures and a juvenile prison term shall not give rise to any legal consequences which consist of prohibition to acquire certain rights.

(2) Persons serving the measure of referral to a correctional home or juvenile prison term shall be disqualified, for the term of the correctional measure or juvenile prison term, from any work or functions in state authorities, local self-government authorities, business organisations or other entities that operate using state-owned property or in organizations entrusted by law with the exercise of public powers.

### **Imposing Security Measures on Juveniles**

#### **Article 109**

(1) Security measures, with the exception of disqualification from a profession, activity or duty, may be imposed on juveniles, provided that they received a correctional measure or a juvenile prison term.

(2) Security measures of mandatory medical treatment of drug addiction and mandatory treatment of alcoholism may not be imposed along with disciplinary correctional measures.

(3) Security measures of mandatory psychiatric treatment and placement in a medical institution, as well as mandatory outpatient psychiatric treatment, shall be imposed independently.

#### **4. Application of Juvenile Justice Provisions to Adults**

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

###### **Article 110**

(1) An adult who has reached the age of twenty-one may not be tried for a crime he committed as a younger juvenile.

(2) An adult who at the time of trial is younger than twenty-one may be tried for crimes he committed as a younger juvenile only where the crime committed carries a prison term of over five years. Such a person may be punished only by a direct supervision measure to be enforced by a guardianship authority or an appropriate institutional correctional measure. In deciding which of the measures to impose, the court shall take into consideration all the circumstances of the case, and in particular the seriousness of the crime, the time that has passed since the commission, as well as the perpetrator's behaviour, and the purpose of the correctional measure.

(3) An adult tried for the criminal offence he committed as an older juvenile may receive only the measure of direct supervision to be enforced by a guardianship authority or an appropriate institutional correctional measure and, subject to the requirements under Art.100 hereof, also a juvenile prison term. In deciding which of the sanctions to impose, the court shall take into consideration all the circumstances of the case, and in particular the seriousness of the crime, the time that has passed since the commission, as well as the perpetrator's behaviour, and the purpose of the correctional measure.

(4) Notwithstanding para. 3 above, an adult who at the time of trial is twenty-one or older, may instead by a juvenile prison term be imposed a prison term the duration of which is set in accordance with Articles 101 and 104 hereof. The prison term imposed in this case has, in terms of rehabilitation and legal consequences of the conviction, the same legal effect as the juvenile prison term.

##### **Imposing Correctional Measures on Young Adults**

###### **Article 111**

(1) A perpetrator who committed a criminal offence as an adult but at the time of trial had not reached the age of twenty-one may be imposed the direct supervision measure by a guardianship authority or a measure of referral to a correctional home on condition that, taking into account his personality and circumstances under which the

offence was committed, it can be reasonably expected that these correctional measures will be sufficient to achieve the purpose that would have been achieved by the punishment.

(2) A young adult who was imposed a correctional measure may be imposed all security measures, subject to the conditions set by this Code, except for the measure of prohibition to engage in a profession, activity or duty.

## **TITLE SEVEN**

### **CONFISCATION OF PECUNIARY GAIN**

#### **Article 112**

(1) No person may retain pecuniary gain<sup>1</sup> originating from an unlawful act which is established by law as a criminal offence.

(2) The pecuniary gain referred to in para. 1 above shall be liable to confiscation under the conditions laid down by the present Code and a court decision.

#### **Requirements for Confiscation of Pecuniary Gain**

#### **Article 113**

(1) Money, property of value and any other pecuniary gain originating from a criminal offence shall be confiscated from the perpetrator, and where such confiscation is not possible, the perpetrator shall pay the equivalent amount in money.

(2) Also liable to confiscation from the perpetrator shall be pecuniary gain for which there is reasonable suspicion to believe that it originates from criminal activity unless the perpetrator makes it probable to believe that its origin is legitimate (extended confiscation).

(3) The confiscation of pecuniary gain referred to in para. 2 above may apply if the perpetrator has been convicted under a final judgment of any of the following:

- 1) any of the criminal offences committed through a criminal organization (Art.401a);
- 2) any of the following criminal offences:
  - crime against humanity and other values protected under international law and committed out of greed;
  - money laundering;
  - unauthorized production, possession and distribution of narcotics;
  - criminal offences against payment operations and economic activity and criminal offences against official duty, which were committed out of greed, and which carry eight year prison term or a more severe punishment.

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<sup>1</sup> *pecuniary gain* as used here refers to a gain of monetary value, i.e. anything the value of which can be expressed in money and which serves as impetus for the commission (translator's note)

(4) Pecuniary gain shall be liable to confiscation if it was obtained in the period before and/or after the commission of any of the criminal offences under para. 3 hereof until the finality of judgment, and if the court establishes that the time when the pecuniary gain was obtained and other circumstances of the case in question justify the confiscation of the pecuniary gain.

(5) Also liable to confiscation shall be pecuniary gain originating from a criminal offence where it has been transferred to other persons free of charge or where such persons knew, could have known, or were obliged to know that the pecuniary gain originated from a criminal offence.

(6) Where pecuniary gain was obtained for another person, such gain shall also be liable to confiscation.

### **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 pecuniary gain only insofar as such pecuniary gain exceeds the adjudicated claim of the injured party.

(2) The injured party which has been referred by the criminal court to bringing his claim for damages in a civil action may request to be reimbursed from confiscated pecuniary gain, provided that he brings a civil claim within six months from the final decision directing him to bring a civil action and under the further condition that he claims reimbursement from the confiscated pecuniary gain within three months from the final decision awarding his claim.

(3) Any injured party who has not brought his claim for damages in the course of the criminal proceedings may request to be reimbursed from confiscated pecuniary gain 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 pecuniary gain, but not later than within three years of the date of final decision ordering confiscation of pecuniary gain and provided further that he requests, within three months of the date of decision awarding his claim for damages, to be reimbursed from the confiscated pecuniary gain.

### **TITLE EIGHT**

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

##### **Taking Effect of Legal Consequences of Criminal Conviction**

#### **Article 115**

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

(2) Legal consequences of a conviction may not take effect when the perpetrator was imposed a fine, a suspended sentence, unless revoked, or a judicial admonition, or when the perpetrator's punishment has been remitted.

(3) Legal consequences of a conviction may be prescribed solely by 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 a public office;
- 2) termination of employment or termination of engagement in a specific profession or occupation;
- 3) termination of certain permits or licenses 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 licenses 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 of finality of judgment (*res judicate*).

(2) In the event that after the finality of the judgment under which legal consequences take effect the judgment is reversed following an extraordinary legal remedy, the commencement or further duration of the effect of legal consequences shall be adjusted to the new decision.

(3) Legal consequences of a criminal conviction consisting of the prohibition to acquire certain rights may be imposed for not longer than ten years.

(4) The time spent serving a punishment shall not be included in the period of legal consequence of the conviction.

(5) Legal consequences of a criminal conviction laid down in Art.116, para. 2 hereof shall be terminated by rehabilitation.

**TITLE NINE**  
**REHABILITATION, CESSATION OF LEGAL CONSEQUENCES OF**  
**CONVICTION**  
**AND DISCLOSURE OF DATA FROM CRIMINAL RECORDS**

**General Notion of Rehabilitation**

**Article 118**

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

(2) Rehabilitation takes effect either by law (legal rehabilitation) or upon application filed by the convicted person on the basis of a court decision (judicial rehabilitation).

(3) Rehabilitation may not have effect on the rights of third persons that are based on the conviction.

**Legal Rehabilitation**

**Article 119**

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

(2) Legal rehabilitation takes place where:

1) a person who was found guilty but whose punishment was remitted or who was imposed a judicial admonition does not commit another criminal offence within one year of the date of final judgment;

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 punished by a fine, community work or up to six months in prison does not commit another criminal offence within three years of the date punishment had been fully served, became time barred or was pardoned;

4) a person punished by prison term from over six months to one year does not commit another criminal offence within five years of the date the punishment had become fully served, became time barred or was pardoned.

(3) Legal rehabilitation shall not take place if an accessory punishment has not yet been enforced or if security measures are still in force.

## **Judicial Rehabilitation**

### **Article 120**

(1) Judicial rehabilitation may be granted to a person punished by a prison term from over one to two years if the person does not commit another criminal offence within five years of the date the punishment had become fully served, became time barred or was pardoned.

(2) Judicial rehabilitation may be granted to a person punished by a prison term of over two years to three years if the person does not commit another criminal offence within eight years of the date the punishment had become fully served, became time barred or was pardoned.

(3) In the cases referred to in paras 1 and 2 above a court shall grant rehabilitation where it holds that thanks to his good conduct the convicted 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 punishment has not been enforced or if security measures are still in force.

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

### **Article 121**

A person who has been convicted several times may be granted rehabilitation by the court solely if conditions referred to in Art. 119 and 120 hereof are met with respect to each of the criminal offences that this person has been convicted for. When assessing whether to grant rehabilitation in such a case, the court shall take into account all the circumstances referred to in Art.120, para. 3 hereof.

## **Suspension of Legal Consequences of Criminal Conviction**

### **Article 122**

(1) Three years after the date when a punishment had been fully served, became barred by statute of limitations or was pardoned, the court may order suspension of a legal consequence of a criminal conviction related to the prohibition to acquire a specific right, unless it has already ceased due to rehabilitation.

(2) When deciding whether to suspend legal consequences of a conviction, the court shall take into account the convicted person's conduct after the conviction, whether he has compensated for the damage inflicted by his criminal offence and given back the proceeds of obtained by commission of the criminal offence, as well as any other circumstances that indicate that it is justified to suspend legal consequences of the conviction.



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

### **Article 123**

(1) Criminal records include personal data on the perpetrator of a criminal offence, data on criminal offence, data on the punishment, suspended sentence, judicial admonition, remission and pardoned punishment, as well as data on the legal consequences of a conviction. Subsequent changes of the criminal record data, data on the service of punishment and cancellation of record on a wrongfully imposed sentence shall be entered in the criminal records.

(2) Records on 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 corrective measures.

(3) Criminal record data may be disclosed solely to a court, public prosecutor and the public administration authority which is in charge of police affairs related to criminal procedures instituted against a person with prior conviction, as well as to authority in charge of enforcement of criminal sanctions and the authority taking part in the procedure for granting amnesty, pardon, rehabilitation or the procedure whereby decision is made on the suspension of legal consequences of conviction, as well as to guardianship authorities where so required for the purpose of the discharge of duties within their competence.

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

(5) No one has the right to request from a citizen to submit any evidence showing whether he has any prior convictions.

(6) Upon their request, citizens may be supplied with data on their prior convictions only where so required for the purpose of their exercise of their rights abroad.

## **TITLE TEN**

### **STATUTE OF LIMITATIONS**

#### **Prosecution Barred by Statute of Limitations**

### **Article 124**

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

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

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

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

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

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

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

7) two years from the commission of a criminal offence punishable under law by a prison term up to one year or a fine.

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

### **Running and Interruption of Time Bars on Prosecution**

#### **Article 125**

(1) Time barring of prosecution shall run from the day of commission of a criminal offence. If a consequence of a criminal offence occurs at a later time, prosecution time barring shall run from the day the consequence occurred.

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

(3) The time barring for an offence committed against a minor shall not run until that person reaches 18 years of age.

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

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

(6) Upon each interruption, time barring shall start to run again.

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

### **Time Bars on Enforcement of Punishment**

#### **Article 126**

(1) Unless otherwise laid down by this Code, the pronounced punishment may not be enforced after the expiration of

- 1) twenty years from the conviction to a prison term of over fifteen years;
- 2) fifteen years from the conviction to a prison term of over ten years;
- 3) ten years from the conviction to a prison term of over five years;
- 4) five years from the conviction to a prison term of over three years;
- 5) three years from the conviction to a prison term of over one year of community work;
- 6) two years from the conviction to a prison term of up to one year or a fine.

(2) Enforcement of a forty year prison term may not be time barred.

## **Time Bars on Enforcement of Accessory Punishment and Security Measure**

### **Article 127**

(1) Time barring of enforcement of a fine as an accessory punishment shall take effect after expiration of two years from the date of final judgment pronouncing that punishment.

(2) Time barring of enforcement of a security measure consisting of mandatory outpatient psychiatric treatment, mandatory medical treatment of drug addicts, mandatory medical treatment of alcoholics and confiscation of objects shall take effect after expiration of five years from the date of final decision ordering such measures.

(3) Time barring of enforcement of a security measure consisting of prohibition to engage in a profession, activity or duty, driving prohibition 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) Enforcement of the security measure consisting of mandatory psychiatric treatment and confinement in a medical institution may not be time barred; however, where more than five years elapsed from the date of final judgment pronouncing the security measure, and where its enforcement has not yet commenced, the court shall examine whether the enforcement of this measure is still necessary.

## **Running and Interruption of Time Bars on Enforcement of Punishment and Security Measures**

### **Article 128**

(1) The time bar for enforcement of a punishment shall run from the finality of the judgment imposing the punishment, and where the suspended sentence was revoked – it shall run from the finality of judgment ordering revocation.

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

barring to take effect shall be determined in accordance with the new punishment, while the duration of time barring shall be calculated from the prior final judgment.

(3) Time barring shall not run during the time period in which enforcement of a punishment may not be undertaken under law.

(4) Time barring shall be interrupted by each action taken by a competent authority in view of enforcement of the punishment.

(5) Upon each interruption, time barring starts to run again.

(6) The time bar for enforcement of a punishment shall have effect in any case after expiration of twice the time period laid down by law for time bars for enforcement of a judgment.

(7) In the event of time barring referred to in para. 6 above, the enforcement of a punishment that has already started shall be suspended.

(8) The provisions of paras 2 to 5 above shall apply accordingly to time barring of enforcement of security measures.

## **Prosecution and Enforcement of Punishment not Subject to Time Bars**

### **Article 129**

Prosecution and enforcement of punishment for criminal offences envisaged by Articles 426 through 431 hereof may not be time barred, or for criminal offences not subject to time barring 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 have their punishment remitted in whole or in part, may have the punishment replaced by a lighter punishment, be granted rehabilitation, or have some or all of the legal consequences of the conviction revoked.

(2) The following security measures may be repealed by amnesty: disqualification from a profession, activity or duty; driving prohibition, and expulsion of foreign nationals from the country.

#### **Pardon**

### **Article 131**

(1) Pardon is used to release from criminal prosecution a specifically named person, to remit punishment in whole or part, to replace the pronounced punishment by a lighter punishment or suspended sentence, to grant rehabilitation, to reduce the term of a specific legal consequence of conviction, or to suspend individual or all of the legal consequences of conviction.

(2) Pardon is used to suspend or reduce the term of security measure of disqualification from a profession, activity or duty, driving prohibition, 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 may not have effect 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 perpetrator shall be subject to the law in force at the time of commission of the criminal offence.

(2) Where a law is amended in the course of commission of a criminal offence, applicable law shall be the law in effect at the time of completion of the criminal offence.

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

(4) A perpetrator of a criminal offence which is qualified by a law which has limited time of application shall be subject to that law irrespective of the time of trial, unless otherwise laid down by that law.

(5) Security measures and correctional measures provided for by the new law may be applied to a perpetrator provided that they are not less favourable to him than those that could have 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) Criminal legislation of Montenegro shall be applicable to anyone who commits a criminal offence in its territory.

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

(3) Criminal legislation of Montenegro shall also be applicable to anyone who commits a criminal offence on a domestic civil aircraft or on a domestic military aircraft regardless of where the aircraft was located at the time of commission of a criminal offence, provided that the perpetrator is a national of Montenegro.

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

#### **Article 135**

Criminal legislation of Montenegro shall be applicable to anyone who commits abroad a criminal offence referred to in Articles 357 through 369, Articles 371 through 374 and Articles 447 through 449 hereof or referred to in Art.258 hereof provided that counterfeiting refers to money that was the legal tender in Montenegro at the time of commission of the criminal offence.

### **Applicability of Criminal Legislation of Montenegro to National of Montenegro who Commits Criminal Offence 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 referred to in Art.135 hereof, provided that he is found in the territory of Montenegro or gets extradited to Montenegro.

2) Subject to the conditions referred to in para. 1 above, the criminal legislation of Montenegro shall also apply to a perpetrator who became a national of Montenegro after the commission of a criminal offence.

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

#### **Article 137**

(1) Criminal legislation of Montenegro shall also be applicable to a foreign national who commits outside the territory of Montenegro against Montenegro or its national a criminal offence other than those referred to in Art.135 hereof or who commits a criminal offence referred to in Articles 276a, 276b, 422, 422a, 423 and 424 hereof, in

the commission of which a national of Montenegro is involved 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 foreign national 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 prison term of five years or longer, 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 a court may pronounce punishment which is more severe than the punishment provided for by the law of the country where the criminal offence was committed.

## **Special Conditions for Criminal Prosecution**

### **Article 138**

(1) Where in the case referred to in Art.134 hereof the criminal proceedings were instituted or completed in a foreign country, prosecution in Montenegro shall be instituted only upon approval of the Supreme Public Prosecutor of Montenegro.

(2) In the case referred to in Art.134 hereof, prosecution of a foreign national may be referred, under the condition of reciprocity, to a foreign country.

(3) In the cases referred to in Art. 136 and 137 hereof, prosecution shall not be instituted if:

- 1) the perpetrator has served the punishment he was imposed abroad;
- 2) the perpetrator has been released abroad under a final judgment or if his punishment has become time barred or pardoned;
- 3) an appropriate security measure has been applied abroad against a mentally incapacitated perpetrator;
- 4) under a foreign law, such criminal offence is prosecuted upon request of the injured party, and such a request has not been filed.

(4) In the cases referred to in paras 136 and 137 hereof, prosecution shall be instituted only where the criminal offence in question is also punishable under the law of the country where the offence was committed, with the exception of criminal offences referred to in Articles 276a, 276b, 422, 422a, 423 and 424 hereof. In the case referred to in Art. 136 and 137, para. 1 hereof, where the criminal offence in question is not punishable under the law of the country where it was committed, prosecution shall be instituted solely upon the approval of the Supreme Public Prosecutor.

(5) In the case referred to in Art.137, para. 2 hereof, if at the time of commission the offence in question was considered a criminal offence under the general legal principles recognized by international law, prosecution may be undertaken 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 Punishment 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 punishment served by a perpetrator under a judgment of a foreign court, shall be included in the term of punishment imposed by a national court for the same criminal offence; and where punishments are not of the same kind, such calculation shall be subject to court assessment.

## **Applicability of Law of a Member State Which Lays Down Criminal Offence**

### **Article 140**

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## **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 other law.

## **TITLE THIRTEEN**

### **MEANING OF TERMS**

#### ***Meaning of Terms Used in this Code***

### **Article 142**

(1) The territory of Montenegro shall mean land, territorial sea, and water areas within its borders, as well as air space above them.

(2) Criminal legislation of Montenegro shall mean this Code, and all other criminal provisions contained in other laws of Montenegro.

(3) A public official shall mean:

- 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 who performs on a permanent or temporary basis official duties or official functions in these authorities;
- 3) a person in an institution, business organization or other entity who is delegated authority to carry out public functions, a person who decides the rights, obligations or interests of natural and legal persons or 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 entrusted with the performance of certain official duties or affairs;

5) a military person, with the exception of provisions of Chapter Thirty Four of this Code.

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

(4) A responsible officer is understood to mean the owner of a business organisation or other entity, or a person in a business organisation, institution or other entity who is entrusted by virtue of his function the funds invested or his authority, with a range of duties with respect to property management, production or other activity or with activities or their supervision or is tasked with the discharge of certain affairs. Also considered to be a responsible officer shall be a public official where he is designated as the principal of any of the criminal offences which are not included in the chapter of this Code governing criminal offences against official duties, or as criminal offences against a public official.

(5) A military person is understood to mean the following: professional military person (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 in state of war or emergency are subject to military service.

(6) Where a public official, a responsible officer or a military person is designated as a principal of specific criminal offences, persons referred to in paras 3, 4 and 5 above may be principals of these acts unless the elements of an individual offence or an individual regulation imply that the principal may be only one of these persons.

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

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

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

(10) A perpetrator is understood to mean principal, co-principal, instigator and aider.

(11) Force is understood to mean the use of hypnosis or overpowering agents with the purpose of bringing someone against his will to the state of unconsciousness or inability to give resistance.

(12) Elections are understood to mean the elections to 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.

(13) Referendum is understood to mean the expression of citizens' will whereby they decide the issues as set by the Constitution and law.

(14) Narcotic drugs are understood to mean substances and preparations declared as narcotics in accordance with regulations based on law.

(15) A movable object is understood to also mean every generated or collected energy for production of light, heat or movement, a telephone impulse, as well as a computer data and a computer program.

(16) A computer system is understood to mean every device or a group of mutually connected or conditioned devices, of which one or several, depending on the programme, perform automatic data processing.

(17) A computer data is understood to mean any presentation of facts, data or concepts in the form that is suitable for processing in a computer system, including programmes by which a computer system performs its functions.

(18) A computer programme is understood to mean a set of ordered computer data on the basis of which a computer system performs its functions.

(19) A computer virus is understood to mean a computer programme which threatens or alters the functions of a computer system and alters, jeopardizes or uses computer data without authorization.

(20) Computer traffic data are understood to mean all computer data generated by computer systems, which make a chain of communication between two computer systems that communicate, including themselves.

(21) Protected natural good is understood to also mean a good which enjoys previous protection under regulations on the protection of natural good.

(22) A cultural good is understood to also mean a good which under regulations on the protection of cultural good enjoys previous protection, as well as a part of cultural good and the protected surrounding of an immovable cultural good.

(23) Money is understood to mean both metal coins and paper banknotes or money made of some other material which by law is a legal tender in circulation in Montenegro or in a foreign country.

(24) Tokens of value are understood to also include foreign tokens of value.

(25) A motor vehicle is understood to mean every engine powered means of transport used in road, waterborne and air transport.

(26) A document is understood to mean any object which is suitable or designated to serve as evidence of a specific fact of relevance to legal relations, as well as a computer data.

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

(28) A family or family community is understood to also mean former spouses, cousins and relations through full adoption in a direct line without limitation, and in a collateral line conclusively with the fourth degree, relatives through incomplete adoption, relatives through marriage conclusively with the second degree, persons who live in the same household and persons that parent a child or a child on the way, even where such persons have never shared a household.

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

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

## **SPECIAL PART**

### **TITLE FOURTEEN**

#### **CRIMINAL OFFENCES AGAINST LIFE AND LIMB**

##### **Homicide**

###### **Article 143**

A person who takes life of other person shall be punished by prison term from five to fifteen years.

##### **Aggravated Homicide**

###### **Article 144**

Punished by a prison term of not less than ten or over forty years shall be a person who:

- 1) takes life of another person in a cruel or insidious manner,
- 2) takes life of another person behaving carelessly and violently,
- 3) takes life of another person and thereat acts with wrongful intent to endanger life of another person,
- 4) takes life of another person out of greed, in order to commit or conceal other criminal offence, out of unscrupulous revenge or other base motives,
- 5) takes life of a public official or military person while serving or in relation to serving an official duty,
- 6) takes life of a child or pregnant woman,
- 7) takes life of a member of his own family or a family community who he has previously abused,
- 8) acts with wrongful intent to take life of several persons, where such acts do not constitute manslaughter, killing a child at birth, or taking life out of mercy.

##### **Manslaughter**

###### **Article 145**

A person who takes life of other person on the spur of the moment, 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 term from one to eight years.

### **Killing a Child at Birth**

#### **Article 146**

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

### **Mercy Killing**

#### **Article 147**

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

### **Negligent Homicide**

#### **Article 148**

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

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

#### **Article 149**

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

(2) Anyone who assists another person in committing suicide under the conditions referred to in Art.147 hereof where such suicide is completed or attempted shall be punished by a prison term from three months to five years.

(3) Anyone who commits the act referred to in para. 1 above against a juvenile or a person in the state of significantly diminished mental capacity shall be punished by a prison term from two to ten years.

(4) Where the offence referred to in para. 1 above was committed against a child or a mentally incapacitated person the perpetrator shall be punished under Art.144 hereof.

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

## **Unlawful Termination of Pregnancy**

### **Article 150**

(1) Anyone who, in breach 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 term from one to eight years.

(2) Anyone who 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 agreement of her parent, adoptive parent or guardian shall be punished by a prison term from one to eight years.

(3) Where, due to the acts referred to in paras 1 and 2 above, 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 referred to in para. 1 above by a prison term from six months to six years and for the offence referred to in para. 2 above by a prison term from two to twelve years.

## **Serious Bodily Injury**

### **Article 151**

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

(2) Anyone who inflicts a serious bodily injury to other person or impairs his health so seriously that the injured person's life is endangered 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 term from one to eight years.

(3) Where, due to the acts referred to in paras 1 and 2 above, the injured person has died, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Anyone who commits the acts referred to in paras 1 and 2 above by negligence shall be punished by a prison term up to three years.

(5) Anyone who commits the acts referred to in paras 1 to 3 above on the spur of the moment, being previously brought into the state of strong excitement without his guilt by an attack, abuse or a serious insult coming from the slaughtered person, shall be punished by a prison term up to three years for the act referred to in para. 1, by a prison term from three months to four years for the act referred to in para. 2, and by a prison term from six months to five years for the act referred to in para. 3.

## **Minor Bodily Injury**

### **Article 152**

(1) Anyone who inflicts a minor bodily injury upon other person or who lightly impairs his health shall be punished by a fine or a prison term up to 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 term of up to three years.

(3) A court may impose a judicial admonition to the perpetrator referred to in para. 2 above provided that the perpetrator was provoked by rude or indecent behaviour of the injured party.

(4) Prosecution for the offence referred to in para. 1 above shall be initiated upon a private charge.

## **Participation in an Affray**

### **Article 153**

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

## **Causing Danger in Affrays or Brawls by Means of Dangerous Tools**

### **Article 154**

Anyone who while involved in affrays or brawls 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 term of up to six months.

## **Exposure to Danger**

### **Article 155**

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

(2) Where, due to the acts referred to in para. 1 above, 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 term from one to five years.

(3) Where, due to the act referred to in para. 1 above, the abandoned person dies, the perpetrator shall be punished by a prison term from one to eight years.

## **Abandonment of Helpless Person**

### **Article 156**

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

(2) Where, due to the acts referred to in para. 1 above, the abandoned person's health is seriously impaired or where other serious bodily injury is inflicted upon him, the perpetrator shall be punished by a prison term from one to five years.

(3) Where, due to the acts referred to in para. 1 above the abandoned person dies, the perpetrator shall be punished by a prison term from one to eight years.

## **Duty to Rescue**

### **Article 157**

(1) Anyone who omits to render aid to a person in imminent danger to life, although he could have done so without subjecting himself or another to serious danger shall be punished by a fine or a prison term of up to one year.

(2) Where, due to omission to render aid, the health of a person in the state of an imminent danger to life is seriously impaired or where other serious bodily injury is inflicted upon such a person, the perpetrator shall be punished by a fine or a prison term up to two years.

(3) Where, due to omission to render aid, the person in the state of imminent danger to life dies, the perpetrator shall be punished by a prison 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 of Language and Alphabet**

### **Article 158**

Anyone who in breach of the regulations governing the use of language and alphabet of peoples or members of minorities and other minority national communities residing in Montenegro denies or restricts to citizens their right to use their mother tongue or alphabet when exercising their rights or addressing authorities or organizations shall be punished by a fine or a prison term up to one year.

## **Violation of Equality**

### **Article 159**

(1) Anyone who on the grounds of his national or ethnic affiliation, affiliation with a race or religion, or on the ground of absence of such an affiliation, or on the grounds of the differences with respect to his political or other beliefs, sex, language, education, social status, social origin, financial standing or other personal characteristic denies or restricts to another person his human rights and freedoms provided for by the Constitution, laws or other regulations or general legal acts or ratified international treaties or, on the grounds of such differences, grants privileges or exemptions shall be punished by a prison term of up to three years.

(2) Where the offence referred to in para. 1 above was committed out of hatred towards a member of a group designated on the grounds of race, skin color, religion, origin, national or ethnic affiliation, the perpetrator shall be punished by a prison term from three months to five years.

(3) Where the offence referred to in para. 2 above was committed by a public official while acting in his official capacity, the perpetrator shall be punished by a prison term from one to eight years.

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

### **Article 160**

(1) Anyone who denies other person the right to express his national or ethnic affiliation or culture shall be punished by a fine or a prison term up to one year.

(2) The punishment referred to in para. 1 above shall also apply to anyone who forces other person to declare his national or ethnic affiliation.

(3) Where the offence referred to in paras 1 and 2 above was committed by a public official while acting in his official capacity, the perpetrator shall be punished by a prison term up to three years.

## **Violation of Freedom of Worship and Practice of Religious Ceremonies**

### **Article 161**

(1) Anyone who denies or restricts the freedom of confession or worship shall be punished by a fine or a prison term up to two years.

(2) The punishment under para. 1 above shall also apply to anyone who prevents or obstructs the practice of religious ceremonies.

(3) Anyone who forces another person to declare his religious beliefs shall be punished by a fine or a prison term up to one year.



(4) A public official who commits the offence under paras 1 to 3 above shall be punished by a prison term up to three years.

## **Unlawful Deprivation of Liberty**

### **Article 162**

(1) Anyone who unlawfully incarcerates, keeps in custody, or in any other manner unlawfully deprives another person of liberty or limits his freedom of movement shall be punished by a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official by virtue of his official position or authority, he shall be punished by a prison term from six months to five years.

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

(4) Where the offences under paras 1 and 3 above resulted in the death of the person unlawfully deprived of his liberty, the perpetrator shall be punished by a prison term from two to twelve years.

(5) An attempted offence under para. 1 above shall be subject to punishment.

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

### **Article 163**

(1) Anyone who unlawfully denies or restricts the right of another person to freedom of movement or residence in the territory of Montenegro shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, the public official shall be punished by a prison term up to three years.

## **Abduction**

### **Article 164**

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

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

(3) Where the abductee is kept for more than ten days or is treated with cruelty or where the abductee's health is heavily impaired or where other grave consequences occur, or where the offence referred to in para. 1 above was committed against a minor, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Where, due to the acts referred to in paras 1, 2 and 3 above, the abductee dies or where the offence was committed by several persons in an organized manner, the perpetrator shall be punished by a prison term from five to fifteen years.

## **Coercion**

### **Article 165**

(1) Anyone who by use of force or threat compels someone to act or refrain from acting or to endure something shall be punished by a prison term from three months to three years.

(2) Anyone who commits the act referred to in para. 1 above in a cruel manner or by threat of murder or serious bodily injury or abduction shall be punished by a prison term from six months to five years.

(3) Where, due to the acts referred to in paras 1 and 2 above, a serious bodily injury is inflicted or other grave consequences occur, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where, due to the acts referred to in paras 1 and 2 above, the person under coercion dies, or where the offence was committed by several persons in an organized manner, the perpetrator shall be punished by a prison term from two to twelve years.

## **Extortion of Testimony**

### **Article 166**

(1) A public official who while acting in his official capacity uses force or threat or other inadmissible means or inadmissible manner with the intention to extort a testimony or another statement from an accused, witness, expert witness or other person shall be punished by a prison 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 an accused in the criminal proceedings due to extorted testimony, the perpetrator shall be punished by a prison term from two to ten years.

## **Ill-treatment**

### **Article 166a**

(1) Anyone who ill-treats another or treats another in a manner that offends human dignity shall be punished by a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term from three months to three years.

## **Torture**

### **Article 167**

(1) Anyone who inflicts severe pain or heavy suffering, whether bodily or mental, in order to obtain from him or a third party a confession or other 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 term from six months to five years.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity or where the offence was committed under his explicit or implied consent, or where a public official incited another person to commit the offence under para. 1 above, the public official shall be punished for the offence under para. 1 above by a prison term from one to eight years.

## **Endangering Safety**

### **Article 168**

(1) Anyone who endangers the safety of another person by threatening to attack his life or body or a person close to him shall be punished by a fine or a prison term up to one year.

(2) Anyone who commits the act under para. 1 above against more than one person, or the act that has caused anxiety of citizens or other grave consequences shall be punished by a prison term from three months to three years.

## **Breach of Inviolability of Dwelling**

### **Article 169**

(1) Anyone who enters without authorisation somebody else's dwelling or closed premises or does not leave such dwelling or premises upon the request of an authorized person shall be punished by a fine or prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years.

(3) An attempted offence under paras 1 and 2 above shall be subject to punishment.

## **Unlawful Search**

### **Article 170**

A public official who while acting in his official capacity unlawfully conducts the search of dwellings, premises, or persons shall be punished by a prison term up to three years.

## **Unauthorized Disclosure of Secret**

### **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 professional duties shall be punished by a fine or a prison term up to one year.

(2) A person who discloses a secret in the public interest or in the interest of another person, where such interest has priority over the interest to keep a secret, shall not be punished for the offence under para. 1 above.

## **Violation of Privacy of Correspondence and Other Communication**

### **Article 172**

(1) Anyone who without authorization opens somebody else's letter, telegram or other closed document or parcel or infringes in any other manner their privacy or who without authorization withholds, conceals, destroys or delivers to other person somebody else's letter, telegram or other parcel or who violates the privacy of electronic mail shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who communicates to other the contents he has come to the knowledge of by violation of privacy of somebody else's letter, or any other document or parcel, telegram or other closed document or parcel or who makes use of such contents.

(3) Where the offence under paras 1 and 2 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years.

## **Unauthorized Wiretapping and Recording**

### **Article 173**

(1) Anyone who without authorization and by using special devices wiretaps or who records a conversation, statement or any other information not intended for his use shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who allows a third person to be informed about the conversation, statement or other information wiretapped i.e. audio recorded without authorization.

(3) Where the offence under paras 1 and 2 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years.

### **Unauthorized Photographing**

#### **Article 174**

(1) Anyone who makes a photographic, film, video or other recording of someone and thereby considerably violates the privacy of other person's life or who delivers or shows such recordings 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 term of up to one year.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, that person shall be punished by a prison term up to three years.

### **Unauthorized Publication and Demonstration of Other Person's Documents, Portraits and Recordings**

#### **Article 175**

(1) Anyone who publicizes or presents a document, a portrait, a photograph, a film or a phonogram of a personal character without the consent of the person who has drawn up the document or to whom it is related i.e. without the consent of the person shown on the portrait, photograph or film or the voice of whom is recorded on the phonogram or without the consent of other person which is required under law, and thereby considerably violates the privacy of life of that person shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years.

### **Unauthorized Collection of Personal Data**

#### **Article 176**

(1) Anyone who obtains without authorization, communicates to others, or uses for purposes other than those for which they were compiled the personal data that are collected, processed and utilized under law shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who, in breach of law, collects personal data or utilizes so collected data.

(3) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years.

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

#### **Article 177**

(1) Anyone who prevents another person from exercising his right to file a request, application, action, lodge a complaint, objection, other legal remedy or any other filing, shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years.

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

#### **Article 178**

(1) Anyone who unlawfully denies or restricts freedom of speech or public appearance of another person shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years.

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

#### **Article 179**

(1) Anyone who 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 term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who prevents or obstructs, without authorisation, the broadcasting of radio or television programmes.

(3) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years

### **Prevention of Publication of Responses and Correction Notices**

#### **Article 180**

Anyone who, in breach of a final decision of a court of law, rejects or prevents the publication of a response or correction notice of a publicized untrue data or information which violates the rights or interests of another person shall be punished by a fine or a prison term up to one year.

### **Prevention of Public Gatherings**

#### **Article 181**

(1) Anyone who uses force, threat, deception or otherwise prevents or obstructs a public gathering organized in compliance with law shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official while acting in his official capacity, he shall be punished by a prison term up to three years.

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

#### **Article 182**

Anyone who knowingly violates law or acts in some other unlawful manner to prevent or obstruct political, trade union or other association or activities of citizens or activities of their political, trade union or other organizations shall be punished by a fine or a prison term up to one year.

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

#### **Article 183**

Prosecution for offences under Art.169, para. 1, 172, paras 1 and 2, 173, paras 1 and 2, 174, para. 1, 175, para. 1, 176, paras 1 and 2 and 177, para. 1 hereof shall be instituted upon a private charge.

### **TITLE SIXTEEN**

### **CRIMINAL OFFENCES AGAINST ELECTORAL RIGHTS**

### **Violation of the Right to be Elected**

#### **Article 184**

Anyone who breaches law or in some other manner prevents or obstructs another person from running in an election shall be punished by a fine or a prison term up to one year.

## **Violation of Right to Vote**

### **Article 185**

(1) Anyone who acts with intent to prevent another person to exercise his voting right and for that purpose unlawfully omits to enter another in electoral register, deletes another from electoral register or takes other unlawful action by which to prevent or obstruct voting of another shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who in order to enable another person to cast a vote unlawfully enters such person in electoral register, or enables another to cast a vote in some other unlawful manner where that person is not entitled to that right.

## **Violation of Freedom of Vote**

### **Article 186**

(1) Anyone who uses violence or threats against another person to force him or who takes other unlawful acts to influence him to vote or not to vote in an election or referendum in favour of or against a specific candidate, election list or proposal shall be punished by a fine or a prison term up to three years.

(2) The punishment under para. 1 above shall also apply to anyone who requires or accepts a present or some other gain for himself or another person in return for agreeing to vote or not vote in favour or against a specific individual.

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

(4) Where the offence under paras 1 and 2 above was committed by a member of the polling board or another person involved in an election in his official capacity, he shall be punished by a prison term from three months to five years.

(5) Anyone who after an election or referendum invites a voter to assume responsibility in relation to voting or requires him to state who he voted for, why he did or did not vote shall be punished by a fine or a prison term up to one year.

## **Abuse of Right to Vote**

### **Article 187**

(1) Anyone who in an election or referendum votes instead of another person under his name, or votes more than once, or uses more than one ballot paper in the same election shall be punished by a fine or a prison term up to one year.

(2) A member of the polling board who enables another person to commit the offence under para. 1 above shall be punished by a fine or a prison term up to two years.

## **Compilation of Inaccurate Electoral Registers**



### **Article 188**

Anyone who, 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 term up to three years.

## **Obstruction of Elections**

### **Article 189**

(1) Anyone who uses force, threats or takes other unlawful acts to prevent or obstruct elections at a polling station shall be punished by a prison term up to three years.

(2) Anyone who obstructs voting at a polling station by causing disorders due to which voting is interrupted shall be punished by a fine or a prison term up to two years.

## **Prevention of Election Monitoring**

### **Article 190**

A member of an election administration authority who prevents or obstructs monitoring of the voting process or of determining the election results to be conducted by a person duly authorized by law or a decision of the competent state authority shall be punished by a fine or a prison term up to one year.

## **Violation of Secrecy of Ballot**

### **Article 191**

(1) Anyone who violates the secrecy of ballot in an election or referendum shall be punished by a fine or a prison term up to six months.

(2) Where the offence under para. 1 above was committed by a member of the polling board or another person involved in an election in his official capacity, the perpetrator shall be punished by a fine or a prison term up to two years.

## **Election Fraud**

### **Article 192**

A member of an election or referendum administration authority or another person involved in an election in his official capacity who by adding or taking away ballot papers or votes during the count, or who takes other unlawful acts to alter the number of ballot papers or votes or who declares fraudulent results of voting shall be punished by a fine or a prison term up to three years.

## **Destroying Election Documents**

### **Article 193**

(1) Anyone who destroys, damages, takes away or conceals a ballot paper or other document on the votes cast in an election or referendum shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a member of the polling board or another person involved in the voting process in his official capacity, the perpetrator shall be punished by a prison term from three months to three years.

## **Serious Offences against Electoral Rights**

### **Article 194**

(1) Where, as a result of the offences under Articles 185, 186, 187, 189, 190, 191, 192 and 193 hereof, public law and order was disturbed or where property the value of which exceeds twenty thousand euros was imperiled, or where lives of a number of people were endangered, the perpetrator shall be punished by a prison term from six months to five years.

(2) Where the offences under Articles 185, 186, 187, 189, 190, 191, 192 and 193 hereof resulted in a serious bodily injury or property damage exceeding forty thousand euros, the perpetrator shall be punished by a prison term from one to ten years.

(3) Where the offences under Articles 185, 186, 187, 189, 190, 191, 192 and 193 hereof resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from five to eighteen years.

## **TITLE SEVENTEEN**

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

#### **Insult**

### **Article 195**

**-deleted-**

#### **Defamation**

## **Article 196**

**-deleted-**

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

## **Article 197**

(1) Anyone who discloses or disseminates information about other person's personal or family life and thereby potentially harms his honour or reputation shall be punished by a fine ranging from three thousand to ten thousand euros.

(2) Where the offence under para. 1 above is performed through media or other similar means or at a public gathering, the perpetrator shall be punished by a fine ranging from five thousand to fourteen thousand euros.

(3) Where what is stated or disseminated has resulted or could have resulted in grave consequences for the injured party, the perpetrator shall be punished by a fine of not less than eight thousand euros.

(4) A person who discloses or disseminates information about other person's personal or family life while acting in his official capacity, while working as a journalist, or defending a right, or protecting interests for justified causes shall not be punished provided that he can prove that the information is true or that he had well-founded reasons to believe that the information he disclosed or disseminated was true.

(5) The truthfulness or falsehood of what is stated or disseminated in relation to other person's personal or family life may not be subject to presentation of evidence, except in the cases referred to in para. 4 above.

### **Tarnishing Reputation of Montenegro**

## **Article 198**

Anyone who publicly exposes Montenegro, its flag, coat of arms, or anthem to mockery shall be punished by a fine or a prison term up to one year.

### **Tarnishing Reputation of Nations, National Minorities and Other Minority Ethnic Groups**

## **Article 199**

Anyone who publicly exposes a nation, national minority or other minority ethnic group living in Montenegro to mockery shall be punished by a fine ranging from three thousand to ten thousand euros.

### **Tarnishing Reputation of Foreign States or International Organizations**

## **Article 200**

(1) Anyone who 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 punishment under para. 1 above shall also apply to anyone who publicly exposes to mockery the United Nations Organization, the International Red Cross, or other international organization of which Montenegro is a member.

## **Impunity for Criminal Offences under Articles 198 to 200**

### **Article 201**

A perpetrator of the offence under Articles 198 to 200 hereof shall not be punished if the statement has been given within the limits of serious criticism in a scientific, literary, or artistic work, or while acting in his official capacity, being engaged as a journalist, or defending a right, or protecting interests for justified causes, provided that the manner of expression or other circumstances prove that he has not done it with the intention of discrediting one or that he can prove the truthfulness of his claims or that he had 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 offences under Art.197 hereof shall be instituted by a private charge.

(2) Where the offences under Art.197 hereof were committed against a deceased person, prosecution shall be instituted by a private charge by his spouse or person who lived with the deceased in a durable customary marriage, or by a direct relative, adoptive parent, adoptive child, or brother or sister of the deceased person.

(3) Prosecution for the offence under Art.200 hereof shall be undertaken upon approval of the Supreme Public Prosecutor of Montenegro.

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

### **Article 203**

(1) When pronouncing a sentence for the offences under Articles 197 to 200 hereof committed through the media, the court shall impose the security measure of publication of the judgment (Art.77). In the case of the criminal offence under Art.197 hereof, this measure shall be imposed upon the consent of the person against whom the offence was committed.

(2) The court shall release from punishment the perpetrator of the criminal offence under Art.197 hereof and impose a security measure of publication of the judgment where the court assesses that the measure will be sufficient to achieve the general purpose of criminal sanctions.

(3) In the cases referred to in paras 1 and 2 above, the judgment shall be published in the same media, on the same page of the print media, or in the same programme of the electronic media in which the information satisfying the elements of a 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 publicize the judgment in whole or in summary form.

(5) Where a summary is published, it shall include information on pronouncement of the judgment as well as its enacting terms, and a section from the reasoning of the judgment, under the decision of the court.

## **TITLE EIGHTEEN**

### **CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM**

#### **Rape**

##### **Article 204**

(1) Anyone who forces another into a sex act or other act of equivalent nature by using force or threatening to take life and harm the body of that or of other person shall be punished by a prison term from two to ten years.

(2) Where the offence under para. 1 above was committed under a threat of revealing information about that or other person that would harm their honour or tarnish their reputation or by a threat of committing other grave wrong, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where as a result of the offences under paras 1 and 2 above a serious bodily injury was inflicted on a person, or where the offence was committed by several persons in an especially cruel or especially degrading manner, or upon a juvenile, or where the offence resulted in pregnancy, the perpetrator shall be punished by a prison term from three to fifteen years.

(4) Where as a result of the offences under paras 1 and 2 above the victim died or where the offence was committed upon a child, the perpetrator shall be punished by a prison term from five to eighteen years.

#### **Sex Act Over Helpless Person**

##### **Article 205**

(1) Anyone who performs over another person a sex act or other act of equivalent nature by taking advantage of the person's mental illness, arrested mental development or other mental alienation, helplessness or some other state of that person due to which he is not able to give resistance shall be punished by a prison term from one to ten years.

(2) Where as a result of the offences under para. 1 above a serious bodily injury was inflicted on a helpless person or where the offence was committed by several persons or in an especially cruel or degrading manner or where it was committed on a juvenile or where the offence resulted in pregnancy, the perpetrator shall be punished by a prison term from two to twelve years.

(3) Where as a result of the offences under paras 1 and 2 above the victim died or where the offence was committed upon a child, the perpetrator shall be punished by a prison term from five to eighteen years.

### **Sex Act Over Child**

#### **Article 206**

(1) Anyone who performs a sex act or other act of equivalent nature over a child shall be punished by a prison term from one to ten years.

(2) Where as a result of the offence under para. 1 above a serious bodily injury was inflicted to the child over whom the act was committed, or where the offence was committed by several persons or where it resulted in pregnancy, the perpetrator shall be punished by a prison term from two to twelve years.

(3) Where the offences under paras 1 and 2 above resulted in the child's death, the perpetrator shall be punished by a prison term from five to eighteen years.

(4) A perpetrator of the act under para. 1 above shall not be punished provided that in terms of their mental and physical development there is only a minor difference between the perpetrator and the child.

### **Sex Act through Abuse of Position of Authority**

#### **Article 207**

(1) Anyone who uses his official position to incite another into a sex act or other act of equivalent nature where the injured party is in a subordinate or dependent position in relation to the perpetrator shall be punished by a prison term from three months to three years.

(2) A teacher, instructor, guardian, adoptive parent, parent, stepfather, stepmother, or another person who by virtue of his employment or his position of power incites to engage in a sex act or other act of equivalent nature a juvenile entrusted to him for study, education, support and care shall be punished by a prison term from one to ten years.

(3) Where the offence under para. 2 above was committed over a child, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Where the offences under paras 1 to 3 above resulted in pregnancy, the perpetrator shall be punished for the offence under para. 1 above by a prison term from six months to five years; for the offence under para. 2 above by a prison term from two to twelve years, and for the offence under para. 3 above by a prison term from three to fifteen years.

(5) Where the offence under para. 3 above resulted in the child's death, the perpetrator shall be punished by a prison term from five to eighteen years.

## **Unlawful Sex Acts**

### **Article 208**

(1) Anyone who under the conditions referred to Art.204, paras 1 and 2, Art.205, paras 1 and 2, Art.206 para. 1 and Art.207, paras 1 to 3 hereof performs some other sex act shall be punished by a fine or a prison term up to two years.

(2) Where as a result of the offences under para. 1 above a serious bodily injury was inflicted to a person, or where the offence was committed by several persons or in an extremely cruel or degrading manner, the perpetrator shall be punished by a prison term from two to ten years.

(3) Where as a result of the offence under para. 1 above a person over whom the offence was committed died, the perpetrator shall be punished by a prison term from three to fifteen years.

## **Solicitation and Making Arrangements for Sex Act**

### **Article 209**

(1) Anyone who solicits a minor for a sex act, another act of the same nature, or another unlawful sex act shall be punished by a prison term from three months to five years.

(2) Anyone who makes arrangements for another to perform a sex act, another act of the same nature, or some other sex act over a minor shall be punished by a prison term up to three years.

## **Pandering**

### **Article 210**

(1) Anyone who solicits or instigates another for prostitution services or participates in procuring one person to another for prostitution or who through media and by other similar means promotes or advertises prostitution shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed against a minor, the perpetrator shall be punished by a prison term from one to ten years.

## **Displaying Pornographic Material to Children and Production and Possession of Child Pornography**

### **Article 211**

(1) Anyone who sells, shows or publicly exhibits or otherwise makes accessible to a child the texts, pictures, audio-visual material or other objects of pornographic content or shows the child a pornographic performance shall be punished by a fine or a prison term up to six months.

(2) Anyone who exploits a juvenile to produce pictures, audio-visual material or other objects of pornographic content or for a pornographic performance shall be punished by a prison term from six months to five years.

(3) Anyone who procures, sells, shows, attends the display of, publicly exhibits or electronically and otherwise makes available the pictures, audio-visual material or other objects of pornographic content resulting from the commission of the acts under para. 2 above, or who possesses such objects shall be punished by a prison term up to two years.

(4) If the offences under paras 2 and 3 above were committed against a child, the perpetrator shall be punished for the offence under para. 2 by a prison term from one to eight years, and for the offence under para. 3 by a prison term from six months to five years.

(5) If the offence under para. 2 above was committed by use of force or threat, the perpetrator shall be punished by a prison term from two to ten years.

(6) -deleted-

(7) The objects referred to in paras 1 and 3 above shall be confiscated and destroyed.

## **Inducement of Minor to Observe Criminal Offences against Sexual Freedom**

### **Article 211a**

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

(2) Where the offence under para. 1 hereof was committed upon a juvenile by the use of force or threat, the perpetrator shall be punished by a prison term from six months to five years.

(3) Where the offence under paragraph 1 hereof was committed by the use of force or threat, the perpetrator shall be punished by a prison term from one to eight years.

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

### **Article 212**



Prosecution for criminal offences under Articles 204 and 205 hereof committed against a spouse shall be instituted by a private charge.

## **TITLE NINETEEN**

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

#### **Bigamy**

##### **Article 213**

(1) Anyone who concludes a new marriage while being already married shall be punished by a fine or a prison term up to two years.

(2) The punishment under para. 1 above shall also apply to anyone who marries a person knowing that person is married.

#### **Concluding a Void Marriage**

##### **Article 214**

(1) Anyone who concludes a marriage concealing from the other party a fact which makes marriage void or who misleads or keeps the other party mislead on that fact shall be punished by a prison term from three months to three years.

(2) Prosecution may be undertaken only if the marriage thus concluded is declared void for reasons referred to in para. 1 above.

#### **Allowing Conclusion of Unlawful Marriage**

##### **Article 215**

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

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

##### **Article 216**

(1) An adult person who cohabitates in a customary marriage with a juvenile shall be punished by a prison 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 punishment under para. 1 above.

(3) Where the offence under para. 2 above was committed for gain, the perpetrator shall be punished by a prison term from six months to five years.

(4) Where the marriage is already concluded, prosecution shall not be instituted, and where it is in the process of being concluded, it shall be suspended.

## **Abduction of Minor**

### **Article 217**

(1) Anyone who unlawfully keeps or takes away a minor from his parents, adoptive parent, guardian, or other person or institution that the minor has been entrusted to or who prevents enforcement of the decision under which the minor is entrusted to a specific individual shall be punished by a fine or a prison term up to two years.

(2) Anyone who prevents enforcement of a decision which was given by a competent authority and which stipulates the manner in which the minor will maintain his personal relations with his parent or other blood relation shall be punished by a fine or a prison term up to one year.

(3) Where the offence under para. 1 above was committed for gain 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 term from three months to five years.

(4) Where a perpetrator of the offences under paras 1 and 3 above voluntarily surrenders a minor to a person or institution that the minor has been entrusted with or who allows for enforcement of the decision giving custody of the minor, punishment may be remitted by court.

(5) Where the court pronounces a suspended sentence for the offences under paras 1 to 3 above, the court may order the perpetrator to hand over the minor within a specified term to the person or institution that the minor is entrusted with or to enable enforcement of the decision giving custody of the minor to a person or institution or the decision stipulating the manner in which the minor will maintain his personal relations with his parent or other blood relation.

## **Change of Family Status**

### **Article 218**

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

(2) Anyone who foists a child onto another or otherwise changes a child's family status by negligence shall be punished by a prison term up to one year.

(3) An attempt of the offence referred to in para. 1 above shall be subject to punishment.

## **Neglect or Abuse of Minor**

### **Article 219**

(1) A parent, adoptive parent, guardian or other person who acts with gross negligence in carrying out his duty to provide care and education to a minor that he is responsible for shall be punished by a prison term up to three years.

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

## **Domestic Violence**

### **Article 220**

(1) Anyone who uses gross violence to violate bodily and mental integrity of his family members or members of a family community shall be punished by a fine or a prison term up to one year.

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

(3) Where the offences under paras 1 and 2 above resulted in serious bodily injury or harm to one's health or where such offences were committed against a minor, the perpetrator shall be punished by a prison term from one to five years.

(4) Where the offences under paras 1, 2 and 3 above resulted in the death of a family member of a member of family community the perpetrator shall be punished by a prison term from three to twelve years.

(5) Anyone who violates the measures which were ordered on the basis of law by court or other state authority as protection against domestic violence shall be punished by a fine or a prison term up to six months.

## **Omission to Provide Maintenance**

### **Article 221**

(1) Anyone who does not provide maintenance for a person they are under duty to maintain under law, where such duty is laid down by an enforceable court decision or an enforcement 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 term up to one year.

(2) A perpetrator of the offence under para. 1 above shall not be punished if he omitted to provide maintenance for justified reasons.

(3) Where the offences under para. 1 above resulted in grave consequences for the person maintained, the perpetrator shall be punished by a prison term from three months to three years.

(4) Where the court imposes a suspended sentence, the court may order the perpetrator to settle his due liabilities and meet the maintenance requirements regularly in the future.

### **Breach of Family Obligations**

#### **Article 222**

(1) Anyone who, in breach 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 term from three months to three years.

(2) Where the offences under para. 1 above resulted in severe impairment of the family member's health the perpetrator shall be punished by a prison term from one to five years.

(3) Where the offences under para. 1 above resulted in the death of the family member the perpetrator shall be punished by a prison term from one to eight years.

(4) Where the court imposes a suspended sentence for the offences under paras 1 and 2 above the court may order the perpetrator to fulfill his statutory family obligations.

### **Incest**

#### **Article 223**

An adult who performs a sex act or other act of equivalent nature over a minor blood relation in the direct line of descent or over a minor brother, or sister shall be punished by a prison term from six months to five years.

## **TITLE TWENTY**

### **CRIMINAL OFFENCES AGAINST LABOR RIGHTS**

#### **Breach of Labor Rights**

#### **Article 224**

Anyone who knowingly does not abide by laws or other regulations, collective agreements and other general legal acts on labor rights and occupational health of youth, women and persons with a disability and thereby denies or limits the statutory right of another person shall be punished by a fine or a prison term up to two years.

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

### **Article 225**

Anyone who knowingly breaches regulations or otherwise denies or restricts a citizen's right to freedom of employment in the territory of Montenegro on equal terms shall be punished by a fine or a prison term up to one year.

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

#### **Article 226**

(1) Anyone who uses force, threat, or who knowingly breaches regulations or otherwise prevents or obstructs management bodies in their decision making or a member of management bodies in taking part in the work and decision making in that body shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed by a public official or a responsible officer through the abuse of his office or authority shall be punished by a fine or a prison term up to two years.

### **Breach of Right to Strike**

#### **Article 227**

(1) Anyone who uses force, threat or who otherwise prevents or obstructs employees from going on strike, participating in a strike or exercising their right to strike, all in compliance with law shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply to an employer or a responsible officer who lays off one or more employees on the grounds of their taking part in a strike organized in compliance with law or who institutes against them other measures in breach of their labor rights.

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

#### **Article 228**

Anyone who organizes or leads a strike in breach of law or other regulations and thereby endangers human life, health, or property the value of which exceeds twenty thousand euros, or who thereby causes other grave consequences, unless these constitute elements of another criminal offence, shall be punished by a prison term up to three years.

### **Breach of Social Security Rights**

#### **Article 229**

Anyone who knowingly does not abide by laws or other regulations or general legal acts governing social security and thereby denies or restricts the statutory right of another person shall be punished by a fine or a prison term up to two years.

### **Social Security Fraud**

#### **Article 230**

Anyone who simulates or induces illness or incapacity for work or otherwise unlawfully makes himself eligible for a social security right he is not entitled to by law or other regulations or general legal acts shall be punished by a fine or a prison term up to one year.

### **Breach of Rights Under Temporary Unemployment Status**

#### **Article 231**

Anyone who knowingly does not abide by laws or other regulations or general legal acts governing the rights of citizens during temporary unemployment and thereby denies or restricts to another person the right he is entitled to shall be punished by a fine or a prison term up to two years.

### **Omission to Take Occupational Health Measures**

#### **Article 232**

(1) An officer responsible for occupational health measures who knowingly does not abide by laws or other regulations or general legal acts governing occupational health measures, which may result in hazards to workers' life or health shall be punished by a fine or a prison term up to one year.

(2) Where the court imposes a suspended sentence, the court may order the perpetrator to comply with occupational health measures within the specified time limit.

## **TITLE TWENTY-ONE**

### **CRIMINAL OFFENCES AGAINST INTELLECTUAL PROPERTY**

#### **Violation of Moral Rights of Authors and Performers**

#### **Article 233**

(1) Anyone who in his own name or in the name of another person publicizes, in whole or in part, releases into circulation copies of someone else's copyrighted work or performance or otherwise publicly discloses someone else's copyrighted work or performance shall be punished by a fine or a prison term up to three years.

(2) Anyone who without a permit of the author changes or re-makes someone else's copyrighted work or recorded performance shall be punished by a fine or a prison term up to one year.

(3) Anyone who releases into circulation copies of someone else's copyrighted work or performance in a manner which is insulting for the author or performer's honour and reputation shall be punished by a fine or a prison term up to six months.

(4) Objects of the criminal offence and objects that were used for or intended for the commission of a criminal offence under paras 1 to 3 above shall be confiscated and objects of the criminal offence shall be destroyed.

(5) Prosecution for an offence under para. 3 above shall be instituted by a private charge.

## **Unauthorized Use of Copyrighted Works or Objects of Related Rights**

### **Article 234**

(1) Anyone who publicizes, records, duplicates or otherwise publicly discloses or makes available, in whole or in part, a copyrighted work, performance, phonogram, videogram, show or database shall be punished by a prison term up to three years.

(2) The punishment under para. 1 above shall also imposed on anyone who 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 duplicated or released into circulation without authorization.

(3) Where the offence under paras 1 and 2 above was committed with the intention of acquiring pecuniary gain for himself or another person, the perpetrator shall be punished by a prison term from three months to five years.

(4) Instruments for the commission of criminal offences and the instruments that were used for or intended for the commission of the criminal offences under paras 1 and 2 above shall be confiscated, and the objects resulting from the criminal offences shall be destroyed.

## **Voluntary Noncompliance with Protection Measures Intended for Prevention of Violations of Copyright and Related Rights and Rights Related Information**

### **Article 235**

(1) Anyone who produces, imports, releases into circulation, sells, leases, advertises in the interest of sale or leases or keeps for commercial purposes any devices or means whose basic or main 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 means in the interest of violating copyright or related rights shall be punished by fine or a prison term up to three years.

(2) Instruments for the commission of criminal offences and the instruments that were used for or intended for the commission of the criminal offence under para. 1 above shall be confiscated, and objects resulting from the criminal offence shall be destroyed.

## **Unauthorized Removal or Modification of Electronic Information on Copyright and Related Rights**

### **Article 236**

(1) Anyone who without authorization removes or alters electronic information on copyright and related rights, or releases into circulation, imports, broadcasts or otherwise publicly discloses or makes available a copyrighted work or object of related legal protection, from which electronic information on the rights was removed or modified without authorization shall be punished by a fine or a prison term up to three years.

(2) Instruments of the criminal offence and the instruments that were used for or intended for the commission of the criminal offences under para. 1 above shall be confiscated, and objects resulting from the criminal offence shall be destroyed.

## **Unauthorized Patent Use**

### **Article 237**

(1) Anyone who without authorization produces, imports, exports, offers in view of releasing into circulation, releases into circulation, stores or uses in commercial transactions a product or procedure protected by patent shall be punished by a fine or a prison term up to three years.

(2) Where the offences under para. 1 above resulted in pecuniary gain or damage exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Whoever without authorization 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 term up to two years.

(4) Whoever without authorization files a patent application or does not indicate the inventor in the application or indicates him falsely shall be punished by a prison term from six months to five years.

(5) Instruments for the commission of criminal offences and instruments that were used for or intended for the commission of the criminal offences referred to in paras 1 to 3 above shall be confiscated, and objects resulting from the criminal offence shall be destroyed.

## **Misuse of Design**



### **Article 238**

(1) Anyone who without authorization uses, in whole or in part, someone else's registered or protected product design on their traded product shall be punished by a fine or a prison term up to three years.

(2) Anyone who without authorization publicizes or otherwise makes available to the public the subject of someone else's design application before it was published in the manner laid down by law shall be punished by a fine or a prison term up to one year.

(3) Instruments for the commission of criminal offences and the instruments that were used for or intended for the commission of the criminal offences under para. 1 above shall be confiscated, and the objects resulting from the criminal offence shall be destroyed.

## **TITLE TWENTY-TWO CRIMINAL OFFENCES AGAINST PROPERTY**

### **Theft**

#### **Article 239**

(1) Anyone who takes from another his movable property with the intention to obtain for himself or for another illicit pecuniary gain through appropriation of such property shall be punished by a fine or a prison term up to three years.

(2) An attempted offence referred to in para. 1 above shall be subject to punishment.

### **Aggravated Theft**

#### **Article 240**

(1) A perpetrator of the offence of theft (Art.239) shall be punished by a prison term from one to eight years where the theft was committed:

- 1) by breaking open or breaking into locked buildings, rooms, safes, wardrobes or other locked containers, 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 defense;
- 5) during a fire, flood, earthquake or other disaster;
- 6) by taking advantage of helplessness or other distress of another person.

(2) Where the value of stolen things exceeds three thousand euros or where a stolen property is a cultural or natural good, the perpetrator shall also be punished by punishment under para. 1 above.

(3) Where the value of stolen property exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

## **Robbery**

### **Article 241**

(1) Anyone who is caught committing a theft and who uses force or threats of taking life or harming body against another person with the intention to retain the stolen property shall be punished by a prison term from one to eight years.

(2) Where the value of stolen property exceeds three thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

(3) Where the value of stolen property exceeds thirty thousand euros the perpetrator shall be punished by a prison term from two to twelve years.

(4) Where the offences under paras 1 to 3 above were committed by a group or where during the commission of the offence a serious bodily injury was inflicted on another with wrongful intent the perpetrator shall be punished by a prison term from three to fifteen years.

(5) Where during the commission of the offences under paras 1 to 3 above a person was killed with wrongful intent, the perpetrator shall be punished by a prison term not shorter than ten years or by a forty-year prison term.

(6) Where the value of stolen property under para. 1 above does not exceed one hundred and fifty euros, and where the perpetrator intended to acquire only a small pecuniary gain, the perpetrator shall be punished by a prison term up to three years.

(7) An attempted offence referred to in para. 6 above shall be subject to punishment.

## **Assault and Robbery**

### **Article 242**

(1) Anyone who uses force or threats of taking life or harming body with the intention to take from another movable property in order to obtain for himself or for another person illicit pecuniary gain shall be punished by a prison term from two to ten years.

(2) Where the value of stolen property exceeds three thousand euros, the perpetrator shall be punished by a prison term from two to twelve years.

(3) Where the value of stolen property exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from three to fifteen years.

(4) Where the offences under paras 1 to 3 above were committed by a group or where they resulted in severe bodily injury of another person committed with wrongful intent, the perpetrator shall be punished by a prison term from three to fifteen years.

(5) Where during the commission of the offences under paras 1 to 3 above a person was killed with wrongful intent, the perpetrator shall be punished by a prison term not shorter than ten years or by a forty-year prison term.

(6) Where the value of stolen property under para. 1 above does not exceed one hundred and fifty euros and where the perpetrator intended to acquire only a small pecuniary gain, the perpetrator shall be punished by a prison term up to three years.

(7) An attempted offence referred to in para. 6 above shall be subject to punishment.

## **Embezzlement**

### **Article 243**

(1) Anyone who embezzles movable property of another person which is entrusted to him with the intention to obtain for himself or for another person illicit pecuniary gain shall be punished by a fine or a prison term up to two years.

(2) Where the value of embezzled property exceeds three thousand euros, the perpetrator shall be punished by a prison term from one to six years.

(3) Where the value of embezzled property exceeds thirty thousand euros or where the embezzled property is a cultural good, the perpetrator shall be punished by a prison term from one to eight years.

(4) Anyone who misappropriates movable property of another person which he found or incidentally came by with the intention to obtain for himself or another person pecuniary gain shall be punished by a fine or a prison term up to one year.

(5) Where the embezzled property is privately owned, prosecution for the offences under paras 1 to 4 above shall be instituted by a private charge.

## **Fraud**

### **Article 244**

1) Anyone who deceives another person or keeps him in deception 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 person with the intention to obtain for himself or another person illicit pecuniary gain shall be punished by a fine or a prison term up to three years.

(2) Anyone who commits the offence under para. 1 above with the sole intention to cause damage to another person shall be punished by a fine or a prison term up to six months.

(3) Where the offences under paras 1 and 2 above resulted in pecuniary gain or damage exceeding three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where the offences under paras 1 and 2 above resulted in pecuniary gain or damage exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

### **Ill-Founded Grant and Use of Loans and Other Benefits**

#### **Article 245**

(1) Anyone who falsely represents or conceals facts to obtain for himself or another person a loan, subsidy or other benefit even though he does not meet the eligibility requirements shall be punished by a fine or a prison term up to three years.

(2) Anyone who uses the loan, subsidy or other benefit obtained for purposes other than the ones the loan, subsidy or other benefit was granted for shall be punished by a fine or a prison term up to two years.

(3) The punishment for the offences under paras 1 and 2 above shall also apply to the responsible officer in a business organisation or other business entity where the loan, subsidy or other benefit were obtained for the business organisation or other business entity or where they were not used by these entities for the intended purposes.

### **Petty Larceny, Embezzlement and Fraud**

#### **Article 246**

(1) Anyone who commits petty larceny, embezzlement, or fraud shall be punished by a fine or a prison term up to six months.

(2) Theft, embezzlement or fraud shall be considered to be petty offences where the value of the property stolen or embezzled or of the damage inflicted by fraud does not exceed one hundred and fifty euros and where the perpetrator intended to acquire only a small pecuniary gain or cause small damage.

(3) Where the offence under para. 1 above was committed against privately owned property, prosecution shall be instituted by a private charge.

### **Misappropriation**

#### **Article 247**

(1) Anyone who misappropriates movable property of another person without intention to obtain pecuniary gain shall be punished by a fine or a prison term up to six months.

(2) Where the value of misappropriated property exceeds three thousand euros, the perpetrator shall be punished by a prison term up to two years.

(3) Where the value of misappropriated property exceeds thirty thousand euros or where the property is a cultural good, the perpetrator shall be punished by a prison term from three months to three years.

(4) Where the offences under paras 1 to 3 above were committed against privately owned property, prosecution shall be instituted by a private charge.

## **Auto Theft**

### **Article 248**

(1) Anyone who takes a motor vehicle without owner's consent for his own use shall be punished by a fine or a prison term up to two years.

(2) Where the perpetrator of the offence under para. 1 above caused damage exceeding one thousand euros to the misappropriated vehicle by negligence or where he allows another person to inflict damage to it, he shall be punished by a fine or a prison term up to three years.

(3) An attempted offence under para. 1 above shall be subject to punishment.

## **Abuse of Trust**

### **Article 249**

(1) Anyone who is given authorization to represent property interests of another person or take care of his property and who abuses such authorization with the intention to obtain pecuniary gain for himself or another person or to cause damage to the person whose property interests he represents or whose property he takes care of shall be punished by a fine or a prison term up to three years.

(2) Where as a result of the offence under para. 1 above the pecuniary gain obtained or the damage inflicted exceeds three thousand euros, the perpetrator shall be punished by a prison term from one to six years.

(3) Where as a result of the offence under para. 1 above, the pecuniary gain obtained or the damage inflicted exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where the offence under paras 1 to 3 above was committed by a guardian or an attorney-at-law, the perpetrator shall be punished for the offences under para. 1 above by a prison term from six months to five years, for the offences under para. 2 above by a prison term from one to eight years, and for the offences under para. 3 above by a prison term from two to ten years.

## **Extortion**

### **Article 250**

(1) Anyone who uses violence or threats to force another to act or refrain from acting thus inflicting damage to his property or property of another person with the intention to obtain illicit pecuniary gain for himself or another person shall be punished by a prison term from one to eight years.

(2) Where the offence under para. 1 above resulted in pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

(3) Where the offence under para. 1 above resulted in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Anyone who engages in the commission of the offences under paras 1 to 3 above on a regular bases, or who engages in the commission of the offences in association with other persons in an organized manner shall be punished by a prison term from three to fifteen years.

## **Blackmail**

### **Article 251**

(1) Anyone who threatens to another person to reveal information tarnishing his honour and reputation or honour and reputation of persons close to him thereby forcing him to act or refrain from acting to the detriment of his property or property of another person with the intention to obtain illicit pecuniary gain for himself or another person shall be punished by a prison term from three months to five years.

(2) Where the offence under para. 1 above results in pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under para. 1 above results in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

(4) Anyone who engages in the commission of the offences under paras 1 to 3 above on a regular bases, or who engages in the commission of the offences in association with other persons in an organized manner shall be punished by a prison term from two to twelve years.

## **Usury**

### **Article 252**

(1) Anyone who lends money or other consumable property to another person in return for unreasonably high pecuniary gain for himself or another person thereby taking advantage of his difficult financial situation, position of vulnerability, extreme need, levity or poor judgment shall be punished by a prison term up to three years and by a fine.

(2) Where as a result of the offence under para. 1 above the injured party suffered grave consequences or where the perpetrator obtained pecuniary gain exceeding three thousand euros, he shall be punished by a prison term from six months to five years and by a fine.

(3) Where the offence under para. 1 above resulted in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from one to eight years and by a fine.

## **Destroying or Damaging Property of Another Person**

### **Article 253**

(1) Anyone who destroys, damages or makes useless the property of another person shall be punished by a fine or a prison term up to six months.

(2) Where the offence under para. 1 above resulted in a damage exceeding three thousand euros, the perpetrator shall be punished by a fine or a prison term up to two years.

(3) Where the offence under para. 1 above resulted in a damage exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from six months to five years.

(4) Where the damaged property resulting from the offences under para. 1 above is privately owned, prosecution shall be instituted by a private charge.

## **Destruction and Damage of Cultural Good**

### **Article 253a**

(1) Anyone who damages, destroys or makes useless a cultural good shall be punished by a prison term from one to eight years.

## **Smuggling of Cultural Good**

### **Article 253b**

(1) Anyone who takes out of the territory of Montenegro a cultural good without the authorization of the competent authority shall be punished by a prison term up to three years.

(2) Anyone who disposes of a cultural good that he took out of the territory of Montenegro without the authorization of the competent authority shall be punished by a prison term up to five years.

(3) Anyone who engages in the commission of the offences under paras 1 and 2 above on a regular basis, or who engages in the commission of the offences in association with other persons in an organized manner shall be punished by a prison term from one to eight years and a fine.

(4) An attempt of the criminal offences under para. 1 above shall be subject to punishment.

## **Unlawful Occupation of Land**

### **Article 254**

(1) Anyone who occupies land of another person shall be punished by a fine or a prison term up to 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 term from three months to three years.

### **Thwarting of Creditor's Claims**

#### **Article 255**

(1) Anyone who, with the intention to thwart creditor's claim, disposes of, destroys, damages, or takes away his property on which another person has lien or right of enjoyment thereby causing damage to another person shall be punished by a fine or a prison term up to six months.

(2) The punishment under para. 1 above shall also apply to anyone who, with the intention to thwart settlement of creditor's claim in a forced enforcement procedure, disposes of, destroys, damages or conceals parts of his property thus causing damage to the creditor.

(3) Where the offences under paras 1 and 2 above were committed against private citizens, prosecution shall be instituted by a private charge.

### **Concealment**

#### **Article 256**

(1) Anyone who conceals, sells out, buys, accepts as security, or otherwise obtains property which he knows is the result of a criminal offence or what was gained for it through sale or exchange shall be punished by a fine or a prison term up to three years, provided that the punishment is less severe than the punishment prescribed for the criminal offence by which the property was obtained.

(2) Anyone who commits the offence under para. 1 above and who could have known or should have known the property was the result of a criminal offence shall be punished by a fine or a prison term up to one year.

(3) Where the perpetrator commits the criminal offence under para. 1 above on a regular basis, or where the offence was committed by several persons in an organized manner, or where the value of concealed property exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from six months to five years.

### **Appropriation, Concealment and Destruction of Archival Materials**

#### **Article 256a**

(1) Whoever appropriates, conceals, inflicts severe damage, destroys or otherwise makes useless records or archival materials or takes them to another state without proper authorization of the competent authority or allows another person to do so shall be punished by a prison term from three months to five years.



(2) Where the offence under para. 1 above was committed against records or archival materials of great significance, the perpetrator shall be punished by a prison term from one to ten years.

### **Prosecution in Cases when Perpetrator is Closely Related to Injured Party**

#### **Article 257**

Where the criminal offences under Articles 239, 240, 244, 248, 249, paras 1 to 3, and 256 hereof were committed against a spouse, a person the injured party lives with in a durable customary marriage, a direct blood relative, a brother or sister, adoptive parent or adopted child, or other persons with whom the perpetrator lives in joint household, prosecution shall be instituted by a private charge.

## **TITLE TWENTY-THREE CRIMINAL OFFENCES AGAINST PAYMENT TRANSACTIONS AND BUSINESS OPERATIONS**

### **Counterfeiting Money**

#### **Article 258**

(1) Anyone who produces imitation currency with the intention to put it into circulation as genuine or who alters genuine currency to increase its value shall be punished by a prison term from two to twelve years.

(2) Anyone who obtains, keeps or transports counterfeit currency with the intention to put it into circulation as genuine or who puts counterfeit currency into circulation shall be punished by a prison term from two to ten years.

(3) Where as a result of the offence under paras 1 and 2 above counterfeit currency was produced, altered, put into circulation or obtained and where its value exceeds fifteen thousand euros or an equivalent amount in a foreign currency, the perpetrator shall be punished by a prison term from five to fifteen years.

(4) Anyone who receives counterfeit currency as genuine and who after learning it is counterfeit puts it into circulation or who knows counterfeit currency was produced, or that counterfeit money was put into circulation and does not report it shall be punished by a fine or a prison term up to one year.

(5) Counterfeit currency shall be confiscated.

(6) Counterfeit currency within the definition 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 breach of regulations governing production of currency.

## **Counterfeiting Securities**

### **Article 259**

(1) Anyone who produces counterfeit securities or alters genuine securities with the intention to use them as genuine or gives them to another person, or who uses counterfeit securities as genuine ones, or obtains them for that purpose shall be punished by a prison term from one to five years.

(2) Where the aggregate value of counterfeit securities under para. 1 above exceeds three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the aggregate value of counterfeit securities referred to in para. 1 above exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

(4) Anyone who receives counterfeit securities as genuine and who after learning they are counterfeit puts them into circulation shall be punished by a fine or a prison term up to one year.

(5) Counterfeit securities shall be confiscated.

## **Counterfeiting and Abuse of Credit and Debit Cards**

### **Article 260**

(1) Anyone who produces counterfeit payment card or who alters genuine payment card with the intention to use it as genuine, or who unlawfully obtains counterfeit payment card or genuine payment card, or who possesses it, transfers it to another person for his use or who uses it shall be punished by a prison term up to three years.

(2) Where the perpetrator of the offence under para. 1 above obtained illicit pecuniary gain by using the payment card, he shall be punished by a prison term from six months to five years.

(3) Where the perpetrator of the offence under para. 1 above obtained illicit pecuniary gain exceeding three thousand euros, he shall be punished by a prison term from one to eight years.

(4) Where the perpetrator of the offence under para. 1 above obtained illicit pecuniary gain exceeding thirty thousand euros, he shall be punished by a prison term from two to ten years.

## **Counterfeiting Token of Value**

### **Article 261**

(1) Anyone who produces counterfeit tokens of value or alters genuine ones with the intention to use them as genuine or give them to another person for his use, or who

uses such counterfeit tokens of value as genuine or obtains them for that purpose shall be punished by a prison term up to three years.

(2) If the aggregate value of tokens referred to in para. 1 above exceeds three thousand euros, the perpetrator shall be punished by a prison term from six months to five years.

(3) If the aggregate value of tokens referred to in para. 1 above exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(4) Anyone who removes the seal by which tokens of value are annulled or who otherwise tries to give them the appearance of valid tokens, or who uses already used tokens or sells them as if they were valid shall be punished by a fine or a prison term up to one year.

(5) Counterfeit tokens of value shall be confiscated.

### **Manufacture, Purchase and Supply of Counterfeiting Instruments and Materials**

#### **Article 262**

(1) Anyone who manufactures, purchases, sells, keeps for his use or supplies another person for his use the instruments and material for producing counterfeit currency, payment cards, or tokens of value shall be punished by a prison term from six months to five years.

(2) The punishment under para. 1 above shall also apply to anyone who, in view of producing counterfeit currency, produces, purchases, sells, keeps, or supplies another person with holograms or other currency elements serving as protection against counterfeiting.

(3) Anyone who manufactures, purchases, keeps for his use or supplies another person for his use the instruments for producing counterfeit tokens of value shall be punished by a fine or a prison term up to two years.

(4) The instruments referred to in paras 1 and 2 above shall be confiscated.

### **Issuing Uncovered Checks and Non-cash Means of Payment**

#### **Article 263**

(1) Anyone who uses an uncovered debit card or uses a credit card knowing that it will not be covered within the term set thereby obtaining for himself or for another person illicit pecuniary gain exceeding one hundred and fifty euros shall be punished by a fine or a prison term up to three years.

(2) The punishment under para. 1 above shall also apply to anyone who, with the intention of obtaining illicit pecuniary gain exceeding five hundred euros for himself or

for another person, knowingly issues or puts into circulation an uncovered cheque, bill of exchange, a security, or some other means of payment, or a means securing payment.

(3) Where the offences under paras 1 and 2 above resulted in illicit pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where the offences under paras 1 and 2 above resulted in illicit pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

## **Evasion of Taxes and Contributions**

### **Article 264**

(1) Anyone who, with the intention that he or another natural or legal person fully or partly evades payment of taxes, contributions or other statutory levies, furnishes false data on legal income, property or other facts relevant for the assessment of such obligations or anyone who, with the same intention, in case of mandatory tax returns, does not report legal income or property and other facts relevant for the assessment of such obligations and who, with the same intention, otherwise conceals data in relation to the assessment of such liabilities where the amount of liability the payment of which is evaded exceeds one thousand euros shall be punished by a prison term up to three years and by a fine.

(2) Where the offence under para. 1 above was committed to the detriment of the financial interests of the European Union, the perpetrator shall be punished by the punishment prescribed for that offence.

(3) Where the amount of liability referred to in paras 1 and 2 above the payment of which is evaded exceeds ten thousand euros, the perpetrator shall be punished by a prison term from one to six years and by a fine.

(4) Where the amount of liability referred to in paras 1 and 2 the payment of which is evaded exceeds one hundred thousand euros, the perpetrator shall be punished by a prison term from one to eight years and by a fine.

## **Smuggling**

### **Article 265**

(1) Anyone who takes goods across the customs line evading customs control or who by evading customs control takes goods across customs line armed, in a group or using force or threats shall be punished by a prison term from six months to five years and by a fine.

(2) Whoever, by avoiding customs control, transfers across the customs line a large quantity of weapons or ammunition or weapons the possession of which is prohibited to citizens or other goods the production or trade of which is restricted or prohibited shall be punished by a prison term from one to eight years and by a fine.

(3) Anyone who sells, distributes or conceals uncleared goods or organizes a network of dealers or middlemen for distribution of such goods shall be punished by a prison term from one to eight years and by a fine.

(4) The goods which are the object of the offences under paras 1 and 2 above shall be confiscated.

(5) A vehicle with hidden compartments which was used for the transport of the goods which represent the object of the offences under para. 1 above or intended for commission of these criminal offences may be confiscated when the owner or user of vehicle knew, could have known or should have known thereof, or when the value of the goods which are the object of the criminal offence exceeds one third of the value of the means of transport at the time of commission of the criminal offence.

## **Unlawful Engagement in Banking, Stock-Exchange and Insurance Business**

### **Article 266**

(1) Anyone who without holding licence or in breach of licence eligibility requirements engages in banking, stock-exchange or insurance business shall be punished by a prison term from three months to five years.

(2) The punishment for the offence under para. 1 above shall also apply to a responsible officer in a legal entity where the legal entity unlawfully engaged in one of the said activities, where the responsible officer knew, could have known, or should have known thereof.

## **Issuing Uncovered Securities**

### **Article 267**

(1) A responsible officer in a bank, business organisation or other business entity engaged in issuance of securities who authorizes issuance of securities although he knew, could have known, or should have known that the issuer was not able to settle his liabilities arising from such issuance on the terms, by the deadlines, and in the manner as set by law or the decision authorizing the issuance shall be punished by a fine or a prison term up to one year.

(2) A public official who authorizes issuance of securities although he knew, could have known, or should have known that the issuer was not able to settle his liabilities arising from such issuance on the terms, by the deadlines, and in the manner as set by law or the decision authorizing the issuance shall be punished by a prison term up to one year.

(3) A responsible officer in a bank who grants a security for issuance of securities even though he knew, could have known or should have known of the impossibility to perform a bank obligation taken on with the security on the terms, by the deadlines, and in the manner as set by law or security shall be punished by a fine or a prison term up to six months.

## **Money Laundering**

### **Article 268**

(1) Anyone who converts or transfers money or other property knowing that they are derived from criminal activity for the purpose of concealing or disguising the origin of the 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 misrepresents the facts on the nature, origin, 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 term from six months to five years.

(2) The punishment under para. 1 above shall apply to the principal of the offence under para. 1 above if he was at the same time the principal or the accomplice in the commission of the criminal offence by which the money or property referred to in para. 1 above was acquired.

(3) Where the amount of money or value of the property referred to in paras 1 and 2 above exceed forty thousand euros, the perpetrator shall be punished by a prison term from one to ten years.

(4) Where the offences under paras 1 and 2 above were committed by several persons who associated for the purpose of committing such offences, they shall be punished by prison term from three to twelve years.

(5) Anyone who commits the offence under paras 1 and 2 above and could have known or should have known that the money or property was derived from criminal activity shall be punished by a prison term up to three years.

(6) The money and property referred to in paras 1, 2 and 3 above shall be confiscated.

## **Breach of Equality in Business Operations**

### **Article 269**

(1) Anyone who abuses his official position or authority in order to restrict freedom or independence of association of a business entity or other business enterprise in their business activities, who denies or restricts their right to engage in a business activity in a particular territory, discriminates against them over terms and conditions of business activity or restricts their freedom of business activity shall be punished by a prison term from three months to five years.

(2) The punishment under para. 1 above shall also apply to anyone who abuses his social status or influence in view of committing the criminal offence under para. 1 above.

## **Abuse of Monopoly Position**

### **Article 270**

A responsible officer in a business entity or other business enterprise who abuses monopoly or dominant market position or who by concluding monopolistic contracts causes market disruptions or puts that entity into a favoured position in relation to others thus obtaining pecuniary gain for that entity or for another, or causing damage to other business enterprises, consumers or service users shall be punished by a prison term from three months to five years.

### **Abuse of Trade Name**

#### **Article 271**

Anyone who, with the intention to deceive buyers or service users, uses someone else's trade name, geographic indication of origin, trademark, protected designation, or special commodity mark, or copies individual features of these marks into his trade name, trademark or protected designation, or into his special commodity mark shall be punished by a fine or a prison term up to three years.

### **Misuse of Position in Business Activity**

#### **Article 272**

(1) The responsible officer in a business entity or other business enterprise or other legal entity who by misusing his position or trust with respect to control of another person's property, exceeding the limits of his authorisation, or refraining from discharging his duties obtains for himself or for another person illicit pecuniary gain or causes damage to another shall be punished by a prison term from three months to five years.

(2) The punishment under para. 1 above shall also apply to anyone who, with the intention to obtain for himself or for another person pecuniary gain, misappropriates money, securities, or other movable property entrusted to him in his official capacity in a business entity, other business enterprise, or other legal entity.

(3) Where the offence under paras 1 and 2 above resulted in pecuniary gain exceeding forty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

### **Causing Bankruptcy**

#### **Article 273**

(1) A responsible officer in a business entity or other business enterprise who causes bankruptcy and causes damage to another person by irrational spending of assets or their bargain selling, by excessive borrowing, undertaking disproportional obligations, recklessly concluding contracts with insolvent entities, omitting to collect claims in time, by destroying or concealing property or by other acts which are not in compliance with

prudent business practices shall be punished by a prison term from six months to five years.

(2) Where the offence under para. 1 was committed by negligence, the perpetrator shall be punished by a prison term from three months to three years.

## **Bankruptcy Fraud**

### **Article 274**

(1) A responsible officer in a business entity or other business enterprise who, with the intention that the entity evades payment of liabilities, files a false bankruptcy claim by fair value or fraudulent depreciation of its assets by:

- 1) concealing, fictitiously selling, selling below its market value or ceding free of charge the assets of the business entity in whole or in part,
- 2) concluding fictitious contracts on debt or acknowledge fictitious claims,
- 3) concealing, destroying or altering records that the business enterprise is under duty to keep to the extent that they are not a proper representation of business performance or its assets and liabilities, or counterfeits financial records or otherwise misrepresents assets and liabilities to make the entity eligible for bankruptcy shall be punished by a prison term from six months to five years.

(2) Where the offences under para. 1 above resulted in grave consequences for the creditor, the perpetrator shall be punished by a prison term from two to ten years.

## **Causing Damage to Creditors**

### **Article 275**

(1) A responsible officer in a business entity or other business enterprise who, knowing that the entity has become insolvent, repays the debt or otherwise places one creditor in a favoured position in relation to another creditor thus causing significant damage to the latter shall be punished by a prison term from three months to three years.

(2) The responsible officer referred to in para. 1 above or an entrepreneur who, knowing that the entity has become insolvent and with the intention to deceive or damage the creditor, acknowledges fictitious claims, concludes fictitious contracts or by other fraudulent act damages the creditor shall be punished by a prison term from three months to five years.

(3) Where the offences under paras 1 and 2 above resulted in a damage to the creditor exceeding forty thousand euros or where this provoked compulsory settlement or bankruptcy against the injured party, the perpetrator shall be punished by a prison term from one to eight years.

## **Misuse of Authority in Business Operations**



### **Article 276**

(1) A responsible officer in a business entity or other business enterprise who, with the intention to obtain illicit pecuniary gain for the legal entity with which he is employed, or for other legal person or other business enterprise:

- 1) creates or maintains illicit monetary, commodity or other value funds in the country or abroad,
- 2) produces documents with false contents, makes fraudulent assessment or inventory to misrepresent assets, cash flow, or performance indicators thus misleading managing authorities in the business entity or other legal entity in their decision making concerning management affairs, or puts the business entity or other legal entity in a favoured position in granting of funds or other benefits that they would not have been granted under applicable regulations,
- 3) uses funds for purposes other than those they are intended for,
- 4) otherwise seriously breaches his authority with respect to management, disposal and use of property,

shall be punished by a prison term from three months to five years.

(2) Where the offences under para. 1 above resulted in pecuniary gain exceeding forty thousand euros, the perpetrator shall be punished by a prison term from two to twelve years.

### **Passive Bribery in Business Sector**

#### **Article 276a**

(1) A responsible officer or other person who works for or in a business entity or other business enterprise who solicits or accepts, for himself or for another person, directly or indirectly, a gift or other undue advantage, or accepts the promise of a gift or other undue advantage 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 entity for which or in which he works or of another person shall be punished by a prison term from six months to five years.

(2) The perpetrator referred to in para. 1 above who, after concluding the contract, or reaching the business agreement, or providing the services, or refraining from such acts, solicits or receives for himself or for another person a gift or other undue advantage or accepts the promise of a gift or other undue advantage shall be punished by a prison term up to two years.

(3) The accepted gift and other undue advantage shall be confiscated.

### **Active Bribery in Business Sector**

#### **Article 276b**

(1) Anyone who gives, offers or promises a gift or other undue advantage to a responsible officer or other person who works for or in a business entity or other business enterprise in order that he, for himself or for another person, concludes a contract or reaches a business agreement or provides a service to the detriment or in

favour of the business entity for which or in which he works or of other entity or who acts as an intermediary in this kind of active bribery shall be punished by a prison term from three months to three years.

(2) Punishment may be remitted where the perpetrator referred to in para. 1 above gave to another person a gift or other undue advantage at the request of the responsible officer or of another person who works for or in a business entity or other business enterprise and who voluntarily reports the offence after commission but before he learned it had been detected (effective regret).

(3) The received gift or other undue advantage shall be confiscated.

## **Damaging Business Reputation and Credit Rating**

### **Article 277**

(1) Anyone who for the purpose of damaging business reputation or credit rating of another person disseminates false information about another person or misrepresents business operations of another person shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above resulted in grave consequences, the perpetrator shall be punished by a prison term from three months to three years.

(3) Prosecution for the offences under paras 1 and 2 above shall be instituted by a private charge.

## **Fraudulent Balance Sheet**

### **Article 278**

Anyone who, for the purpose of obtaining some gain for himself or for another person or causing damage to another person, produces a fraudulent balance sheet reporting a profit or loss in a business entity or other business enterprise or reporting the individual interests in the profit or loss of its respective members shall be punished by a prison term from three months to five years.

## **Misuse of Assessment**

### **Article 279**

(1) A licensed assessor who in assessing assets of a business entity or other business enterprise misuses his authority thus obtaining for himself or another person some gain or causing damage to another person shall be punished by a prison term from three months to five years.

(2) Where the offence under para. 1 above resulted in pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under para. 1 above resulted in pecuniary gain or damage exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

## **Revealing a Business Secret**

### **Article 280**

(1) Anyone who without authorization communicates, hands over or otherwise makes accessible to another person the data classified as business secret or who obtains such data with the intention to hand them over to an unauthorized person shall be punished by a prison term from three months to five years.

(2) Where the offence under para. 1 above was committed out of greed or with respect to strictly confidential data or for the purpose of their publication or use abroad, the perpetrator shall be punished by a prison term from two to ten years.

(3) Anyone who commits the offence under para. 1 above by negligence shall be punished by a prison term up to three years.

(4) A business secret is considered to include data and documents which were classified as such by a law, or a regulation or decision issued by a competent authority on the basis of a law, and revealing of which would or could cause harmful effects to the business entity or other business enterprise.

## **Revealing and Using Stock-exchange Secrets**

### **Article 281**

(1) Anyone who reveals to an unauthorized person data related to stock-exchange or broker operations classified as a stock-exchange secret or who receives such data and obtains pecuniary gains through their use shall be punished by a prison term from three months to five years.

(2) Where the offence under para. 1 above resulted in pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under para. 1 above resulted in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

## **Control Prevention**

### **Article 282**

Anyone who prevents a control authority from examining business books or other records or who prevents an inspection or other authority from inspecting the objects, premises or other facilities shall be punished by a fine or a prison term up to one year.

## **Unauthorized Production**

### **Article 283**

(1) Anyone who, without authorization, produces or processes the goods which require a licence by a competent authority shall be punished by a fine or a prison term up to two years.

(2) Anyone who produces or processes the goods the production or processing of which is prohibited shall be punished by a prison term up to three years.

(3) The goods and the means of production and processing shall be confiscated.

## **Unlawful Trade**

### **Article 284**

(1) Anyone who, without authorization for trade activities, acquires for sale goods or other consumer goods the value of which exceeds three thousand euros, or who without authorization engages in large scale trade, brokering or agency operations in domestic or foreign trade of goods and services shall be punished by a fine or a prison term up to two years.

(2) Anyone who engages in the sale of goods the unlawful production of which he organized shall be punished by a prison term from three months to three years.

(3) The punishment under para. 2 above shall also apply to anyone who unlawfully sells, buys or exchanges goods or objects the trade of which is prohibited or limited.

(4) Where a perpetrator of the offence under paras 1 to 3 above organized a network of resellers or middlemen or where he obtained pecuniary gain exceeding three thousand euros, he shall be punished by a prison term from six months to five years.

(5) Where a perpetrator of the offence under paras 1 to 3 above obtained pecuniary gain exceeding thirty thousand euros, he shall be punished by a prison term from one to six years.

(6) The goods and the objects of unlawful trade shall be confiscated.

## **Deception of Buyers**

### **Article 285**

Anyone who, with the intention to deceive buyers, releases into circulation the products whose label includes data which do not match the content, type, origin or quality of the product or who releases into circulation the products which in terms of

their quantity and quality do not match what is normally expected of such products or who releases into circulation products without a label specifying the content, type, origin or quality of the product where such label is required or who uses manifestly fraudulent advertisement when putting the products into circulation shall be punished by a prison term up to three years and by a fine.

### **Counterfeiting Product Markings**

#### **Article 286**

(1) Anyone who, with the intention to use them as genuine, produces counterfeit seals, trademarks, marks or other markings used for domestic and 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 counterfeit or altered markings as genuine ones shall be punished by a fine or a prison term up to two years.

(2) Counterfeit markings shall be confiscated and destroyed.

### **TITLE TWENTY-FOUR**

#### **CRIMINAL OFFENCES AGAINST HUMAN HEALTH**

#### **Noncompliance with Health Regulations for the Suppression of Dangerous Communicable Disease**

##### **Article 287**

Anyone who 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 term up to one year.

#### **Transmission of Dangerous Communicable Disease**

##### **Article 288**

Anyone who 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 transmitted shall be punished by a prison term up to three years.

#### **Transmission of HIV Infection**

##### **Article 289**

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## **Medical Malpractice**

### **Article 290**

(1) A doctor who in providing health care applies manifestly inadequate medical means or manifestly inadequate treatment or who omits to apply adequate hygienic measures or otherwise applies wrong practices thereby seriously impairing the health of another person shall be punished by a prison term from three months to three years.

(2) The punishment under para. 1 above shall also apply to other health care provider who in providing health care or conducting other health related activities manifestly applies wrong practices thereby seriously impairing the health of another person.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

## **Unlawful Practices in Medical Experiments and Tests on Medicines**

### **Article 291**

(1) Anyone who, in breach of regulations, performs medical or other related experiments on humans shall be punished by a prison term from three months to five years.

(2) The punishment under para. 1 above shall also apply to anyone who makes interventions aimed at the creation of a human being that is genetically identical to another human being (cloning) or who conduct experiments to that end.

(3) Anyone who, in breach of regulations, performs clinical trials of a medicine shall be punished by a prison term from three months to three years.

## **Duty to Rescue**

### **Article 292**

(1) A doctor who, in breach of his duty, refuses to provide medical assistance to a person who is in need of such assistance where his life is in peril or who is exposed to the risk of serious bodily injury or whose health may be impaired shall be punished by a fine or a prison term up to two years.

(2) Where as a result of the offence under para. 1 above the person who was denied assistance suffers serious bodily injury or where his health condition is severely impaired, the perpetrator shall be punished by a prison term from three months to four years.

(3) Where the offence under para. 1 above results in the death of the person who was denied assistance, the perpetrator shall be punished by a prison term from one to eight years.

## **Quackery**

### **Article 293**

Anyone who without adequate professional qualifications engages in providing treatment or other health care services shall be punished by a fine or a prison term up to two years.

## **Unlawful Transplantation of Organs**

### **Article 294**

(1) A doctor who prior to performing a transplantation of an organ does not obtain informed consent in writing by 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 term from three months to three years.

(2) The punishment under para. 1 above shall also apply to a responsible officer in a health care institution extracting or transplanting human organs or examining their compatibility for transplantation where the institution does not fulfill statutory requirements for such medical interventions.

## **Unlawful Extraction of Organs for Transplantation**

### **Article 295**

(1) A doctor who for the purpose of transplantation extracts an organ from a living, adult, physically and mentally healthy person without having obtained prior informed consent in writing or who extracts an organ from a living minor who is of poor judgment or is mentally incapacitated without having obtained prior informed consent in writing by his parent, adoptive parent or guardian shall be punished by a prison term from three months to four years.

(2) The punishment under para. 1 above shall also apply to a doctor who takes for transplantation an organ from a deceased person whose death was not established in compliance with the regulations governing transplantation of organs.

(3) A doctor who for the purpose of transplantation extracts an organ from a deceased person who during his life objected, expressly, in writing, to organ extraction or who takes an organ from a deceased minor or a mentally incapacitated person without having obtained prior informed consent in writing by his parent, adoptive parent or guardian shall be punished by a fine or a prison term up to one year.

## **Malpractice in Preparation and Issuance of Medicines**

### **Article 296**

(1) A person in charge of issuing medicines to be used in health care who issues another medicine instead of the one prescribed or required, where such replacement is not allowed, or who does not prepare a medicine in the prescribed proportion or quantity or who acts with malpractice in issuing medicines thus seriously impairing the health of another person shall be punished by a prison term from three months to three years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

## **Production and Release of Harmful Products into Circulation**

### **Article 297**

(1) Anyone who produces for sale, sells or releases into circulation harmful foodstuffs, food or drinks or other products harmful to human health shall be punished by a prison term from three months to three years.

(2) Anyone who releases the products referred to in para. 1 above into circulation without having them inspected by an authorized person, where such inspection is required under regulations, shall be punished by a prison term up to three years.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

(4) The objects referred to in paras 1 and 2 above shall be confiscated.

## **Malpractice in Food Inspection**

### **Article 298**

(1) An authorized person who unconscientiously performs inspection of livestock for slaughter, meat intended as food and other food products or who, in breach of regulations, omits to inspect them thereby making possible the release into circulation of meat and other food products harmful to human health shall be punished by a prison term from three months to three years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

## **Pollution of Drinking Water and Foodstuffs**

### **Article 299**

(1) Anyone who pollutes drinking water or foodstuffs by a harmful substance shall be punished by a prison term from three months to three years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.



## **Unauthorized Production, Possession and Release into Circulation of Narcotic Drugs**

### **Article 300**

(1) Anyone who unlawfully produces, processes, sells, or offers for sale, or who for the purpose of selling buys, possesses, or transports, or mediates 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 term from two to ten years.

(2) Anyone who brings into Montenegro substances proclaimed to be narcotic drugs or plants containing such substances with the intention to commit the offence under para. 1 above shall be punished by a prison term from two to twelve years.

(3) Where the perpetrator of the offence under paras 1 and 2 above organized a network of dealers and middlemen, he shall be punished by a prison term from three to fifteen years.

(4) The punishment under para. 3 above shall also apply to anyone who sells, offers for sale or gives narcotic drugs without fee for further release into circulation to a minor, mentally ill person, a person who has a temporary mental alienation, person having severe intellectual disabilities or a person undergoing drug addiction treatment, or who releases into circulation a narcotic drug mixed with a substance which may lead to serious impairment of health, or who commits the offence under para. 1 above in an educational institution or in its immediate vicinity, or in an institution for the enforcement of criminal sanctions, a public facility, or at a public event, or where the offence under paras 1 and 2 above was committed by a public official, a physician, social worker, priest, teacher or an instructor by virtue of their position or who exploits a minor for the commission of that act.

(5) Punishment may be remitted where the perpetrator of the offences under paras 1 to 4 above reports the name of his drug supplier.

(6) Anyone who 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 term from six months to five years.

(7) Narcotic drugs and the means used for their production shall be confiscated and destroyed.

## **Making Arrangements for Drug Use**

### **Article 301**

(1) Anyone who instigates another person to use narcotic drugs or who gives narcotic drugs to another for his use or use of another person, or who places at disposal of another person the premises for the purpose of drug use, or otherwise enables another person to use narcotic drugs shall be punished by a prison term from six months to five years.

(2) Where the offence under para. 1 above was committed against a minor, mentally ill person, person with temporary mental alienation, person having severe intellectual disabilities 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 the enforcement of criminal sanctions or in a public facility or at a public event, or where the offence in question was committed by a public official, physician, social worker, priest, teacher or an instructor by virtue of their position, the perpetrator shall be punished by a prison term from two to ten years.

(3) Narcotic drugs shall be confiscated and destroyed.

## **Serious Offences against Human Health**

### **Article 302**

(1) Where the offences under Articles 287 and 290, paras 1 and 2, 291, 293, 296 para. 1, 297 paras 1 and 2, 298 para. 1, and 299 para. 1, hereof resulted in a serious bodily injury or severe damage to health of another person, the perpetrator shall be punished by a prison term from one to eight years.

(2) Where the offences under Articles 287 and 290 paras 1 and 2, 291, 293, 296 para. 1, 297 paras 1 and 2, 298 para. 1 and 299 para. 1 hereof resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from two to twelve years.

(3) Where the offences under Articles 290 para. 3, 296 para. 2, 297 para. 3, 298 para. 2 and 299 para. 2 hereof resulted in severe injuries or damage to health of another person, the perpetrator shall be punished by a prison term up to four years.

(4) Where the offences under Articles 290 para. 3, 296 para. 2, 297 para. 3, 298 para. 2 and 299 para. 2 hereof resulted in the death of another person, the perpetrator shall be punished by a prison term from one to eight years.

## **TITLE TWENTY-FIVE**

### **CRIMINAL OFFENCES AGAINST ENVIRONMENT AND SPATIAL PLANNING**

#### **Environment Pollution**

### **Article 303**

(1) Anyone who, in breach of regulations governing protection, preservation and development of the environment, pollutes the air, water or soil to a large extent or in a wider area shall be punished by a prison term up to three years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

(3) Where as a result of the offence under para. 1 above flora and fauna were either destroyed or damaged to a large extent or where the environment is polluted to such an extent that it will take a longer period of time and significant funds to remove the damage, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where as a result of the offence under para. 2 above flora and fauna were destroyed or damaged to a large extent or where the environment is polluted to such an extent that it will take a longer time period and significant funds to remove the damage, the perpetrator shall be punished by a prison term from six months to five years.

(5) Where a suspended sentence is imposed for the offences under paras 1 and 4 above, the court may order the perpetrator to take the prescribed measures of environment protection, preservation and development within the specified time period.

### **Noncompliance with Environment Protection Regulations**

#### **Article 304**

(1) An officer responsible for taking environment protection, preservation and development measures who omits to take the prescribed environment protection measures shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to six months.

(3) Where as a result of the offence under para. 1 above the air, water or soil were polluted to a large extent or in a wider area, the perpetrator shall be punished by a prison term up to three years.

(4) Where as a result of the offence under para. 2 above the air, water or soil were polluted to a large extent or in a wider area, the perpetrator shall be punished by a fine or a prison term up to one year.

(5) Where as a result of the offences under paras 1 and 3 above flora or fauna were destroyed to a large extent or where the environment is polluted to such an extent that it will take a longer period of time and significant funds to remove the consequences, the perpetrator shall be punished by a prison term from one to eight years.

(6) Where as a result of the offences under paras 2 and 4 above flora and fauna were destroyed to a large extent or the environment is polluted to such an extent that it will take longer period of time and significant funds to remove the consequences, the perpetrator shall be punished by a prison term from six months to five years.

(7) Where a suspended sentence is imposed for the offences under paras 1 to 6 above, the court may order the perpetrator to take certain prescribed environment protection, preservation and development measures within the specified time period.

### **Unlawful Construction and Launch of Operation of Facilities and Installations which Pollute the Environment**

#### **Article 305**

(1) A public official or a responsible officer who, in breach of regulations governing the protection, preservation and development of the environment, allows construction, launch of operation or use of facilities or installations or use of technology which to a large extent or in a wider area pollutes the environment shall be punished by a prison term from six months to five years.

(2) Where as a result of the offences under para. 1 above flora or fauna were destroyed to a large extent or the environment is polluted to such an extent that it will take a long period of time or significant funds to remove the consequences, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where a suspended sentence is imposed by court for the offences under paras 1 and 2 above, the court may order the perpetrator to take certain prescribed measures of environment protection, preservation and development within the specified time period.

### **Damaging Environment Protection Facilities and Devices**

#### **Article 306**

(1) Anyone who damages, destroys, removes or otherwise makes useless environment protection facilities or devices shall be punished by a prison term up to three years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

(3) Where the offences under para. 1 above resulted in extensive air, water or soil pollution or pollution in a wider area, the perpetrator shall be punished by a prison term from six months to five years.

(4) Where the offences under para. 2 above resulted in extensive air, water or soil pollution or pollution in a wider area, the perpetrator shall be punished by a prison term up to three years.

(5) Where through the offence under paras 1 and 3 above flora or fauna were destroyed or damaged to a large extent or the environment pollution is of such an extent that it will take a long period of time and significant funds to remove the consequences, the perpetrator shall be punished by a prison term from one to eight years.

(6) Where through the offences under paras 2 and 4 above flora or fauna were destroyed or damaged to a large extent or the environment was polluted to such an extent that it will take a long time or significant funds to remove the consequences, the perpetrator shall be punished by a prison term from six months to five years.

(7) Where a suspended sentence is imposed by court for the offences under paras 1 to 6 above, the court may order the perpetrator to take particular prescribed measures of protection, preservation and development of the environment within the specified time period.

### **Damaging the Environment**

#### **Article 307**

(1) Anyone who, in breach of regulations, uses natural resources, constructs structures, carries out works or otherwise causes damage to the environment to a large extent or in a wider area shall be punished by a prison term up to three years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

(3) Where through the offence under para. 1 above flora or fauna were destroyed or damaged to a large extent or the environment polluted to such an extent that it will take a long time and significant funds to remove the consequences, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where through the offence under para. 2 above flora or fauna were destroyed or damaged to a large extent or the environment polluted to such an extent that for it will take a long time and significant funds to remove the consequences, the perpetrator shall be punished by a prison term from six months to five years.

(5) Where a suspended sentence is imposed by court for the offences under paras 1 to 4 above, the court may order the perpetrator to take particular measures prescribed for protection, preservation and development of the environment within the specified time period.

## **Misuse of Genetically Modified Organisms**

### **Article 307a**

(1) Whoever in breach of regulations produces for sale, sells or releases into circulation 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 term up to one year.

(2) Whoever omits to destroy the waste that contains, consists of or is derived from genetically modified organisms in such a manner 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 term up to one year.

## **Destruction of Plants**

### **Article 308**

(1) Anyone who, in breach of regulations, destroys or damages plants to a larger extent or in a wider area shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed against specially protected species of plants, the perpetrator shall be punished by a prison term from six months to five years.

(3) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to six months.

(4) Where the offence under para. 2 above was committed by negligence, the perpetrator shall be punished by a prison term up to three years.

## **Killing and Torturing Animals**

### **Article 309**

(1) Anyone who, in breach of regulations, kills, hurts or tortures animals or damages and destroys their habitats to a larger extent or in a wider area shall be punished by a fine or a prison term up to one year.

(2) Where as a result of the offence under para. 1 above animals belonging to specially protected animal species are killed or hurt, the perpetrator shall be punished by a prison term from six months to five years.

## **Destroying and Damaging Protected Natural Good**

### **Article 310**

(1) Anyone who damages or destroys a protected natural good shall be punished by a prison term from three months to five years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to six months.

## **Stealing a Protected Natural Good**

### **Article 311**

(1) Anyone who commits theft (Art.239) of a protected natural good shall be punished by a prison term from one to six years.

(2) Where the protected natural good was taken from another person by robbery or assault and robbery or where the value of the stolen natural good exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from five to fifteen years.

(3) Anyone who, in doing construction, mining, water supply, agricultural or other works, misappropriates a natural good which has the characteristics due to which it may be declared a protected natural good shall be punished in accordance with the provisions contained in paras 1 and 2 above.

## **Taking Abroad Protected Natural Good and Specially Protected Plants and Animals**

### **Article 312**

(1) Anyone who, in breach of regulations, exports or takes abroad a protected natural good or specially protected plant or animal shall be punished by a prison term from three months to three years.

(2) An attempted offence shall be subject to punishment.

## **Bringing Hazardous Substances into Montenegro**

### **Article 313**

(1) Anyone who, in breach of regulations, brings into Montenegro radioactive or other hazardous substances or hazardous waste materials, or who transports such substances across the territory of Montenegro shall be punished by a prison term up to three years.

(2) Anyone who by virtue of his position or authority allows or enables for substances and waste materials referred to in para. 1 above to be brought into Montenegro, or who transports the above mentioned substances across the territory of Montenegro shall be punished by a prison term from six months to five years.

(3) Anyone who organizes the commission of offences under para. 1 above shall be punished by a prison term from one year to eight years.

(4) An attempted offence as of para. 1 above shall be subject to punishment.

(5) Where the offence under paras 1, 2 and 3 above resulted in the death of one or a number of persons or in large-scale destruction, the perpetrator shall be punished by a prison term not shorter than ten years.

## **Unlawful Processing, Disposal and Storage of Hazardous Substances**

### **Article 314**

(1) Anyone who, in breach of regulations, processes, disposes, collects, stores or transports radioactive or other hazardous substances or hazardous waste materials shall be punished by a prison term up to three years.

(2) Anyone who by virtue of his official position or authority allows or enables processing, disposal, collecting, storing or transport of substances or waste materials referred to in para. 1 above shall be punished by a prison term from six months to five years.

(3) Where as a result of the offences under paras 1 and 2 above, flora or fauna were destroyed to a large extent or the environment is polluted to such an extent that it will take a long period of time or significant funds to remove the consequences, the perpetrator shall be punished by a prison term from one to eight years.

(4) An attempted offence as of para. 1 above shall be subject to punishment.

(5) Where a suspended sentence is imposed for the offences under paras 1 to 4 above, a court may order the perpetrator to take particular measures prescribed for protection against ionizing radiation or other prescribed protection measures within the specified time period.

## **Unlawful Construction of Nuclear Installations**

### **Article 315**

Anyone who, in breach of regulations, allows or starts construction of a nuclear power plant, an installation for the production of nuclear fuel or an installation for processing of used nuclear waste shall be punished by a prison term from six months to five years.

## **Noncompliance with Decision Ordering Environment Protection Measures**

### **Article 316**

(1) A public official or a responsible officer who omits to enforce the decision of the competent authority ordering environmental protection measures shall be punished by a prison term up to three years.

(2) Where a suspended sentence is imposed for the offence under para. 1 above, the court may order the perpetrator to take within the specified time period the measures set by the competent authority.

## **Violation of the Right to be Informed on State of Environment**

### **Article 317**

(1) Anyone who, in breach of regulations, omits to provide data or provides untrue data on the state of the environment and the phenomena which are necessary for the assessment of the environment hazards and for taking measures for the protection of life and health of people shall be punished by a fine or a prison term up to one year.

(2) Anyone who makes public untrue data on the state of the environment and thereby causes panic or disturbs the public shall be subject to punishment under para. 1 above.

## **Transmission of Communicable Animal and Plant Diseases**

### **Article 318**

(1) Anyone who during an epidemics of a livestock disease that may endanger cattle breeding omits to comply with the regulations, decisions and orders prescribing the measures for suppression and prevention of the disease shall be punished by a fine or a prison term up to two years.

(2) Anyone who while there is still danger of diseases and pests which can endanger animal or plant life omits to comply with the regulations, decisions and orders prescribing the measures for suppression and prevention of the disease or pests shall be subject to punishment under para. 1 above.



(3) Where as a result of the offence under paras 1 and 2 above animals die, plants are destroyed or some other major damage is done the amount of which exceeds three thousand euros, the perpetrator shall be punished by a prison term up to three years.

(4) Where the offence under paras 1 to 3 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

(5) Anyone who, in breach of regulations, conceals the existence of a communicable disease among animals or omits to report to the veterinary service, the veterinary doing private practice or a body competent for veterinary affairs the presence of signs indicating the existence of such a disease due to which the communicable disease spreads or animals die or some other major harm is caused the amount of which exceeds three thousand euros shall be punished by a fine or a prison term up to one year.

## **Veterinary Malpractice**

### **Article 319**

(1) A veterinary or an authorized veterinary worker who in providing veterinary assistance prescribes or applies obviously inadequate means or obviously inappropriate treatment, or otherwise wrongly practices treatment of animals thereby causing animals to die or causing other major damage the amount of which exceeds three thousand euros shall be punished by a fine or a prison term up to two years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to six months.

## **Unlicensed Practice of Veterinary Medicine**

### **Article 320**

Anyone who without appropriate professional qualifications provides treatment of animals or provides other veterinary services for remuneration shall be punished by a fine or a prison term up to six months.

## **Producing Harmful Products for Treatment of Animals**

### **Article 321**

(1) Anyone who produces for sale or releases into circulation products for treatment or for prevention of epidemics in animals which are harmful to their life or health shall be punished by a fine or a prison term up to one year.

(2) Where as a result of the offence under para. 1 above an animal dies or other major damage is caused the amount of which exceeds three thousand euros, the perpetrator shall be punished by a fine or a prison term up to two years.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to six months.

## **Pollution of Livestock Fodder and Water**

### **Article 322**

(1) Anyone who 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 term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who pollutes with a harmful substance water in a fish-pond, lake, river, channel or sea or who endangers fish and other aquatic animals by stocking with fish from polluted waters.

(3) Where as a result of the offence under paras 1 and 2 above animals die or other large scale damage is caused the amount of which exceeds three thousand euros, the perpetrator shall be punished by a fine or a prison term up to two years.

(4) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to six months.

## **Devastation of Forests**

### **Article 323**

(1) Anyone who, in breach of regulations or orders by competent authorities, cuts or clears forests, or who damages trees or otherwise devastates forests or cuts down one or more trees in a park, avenue of trees or in some other place where cutting trees is prohibited shall be punished by a fine or a prison term up to one year.

(2) Anyone who commits the offence under para. 1 above in a protection forest, national park or some other special purpose forest shall be punished by a prison term from three months to three years.

## **Unlawful Deforestation**

### **Article 324**

(1) Anyone who, with the intention to steal wood, fells one or more trees in a forest, park or an avenue of trees, where the quantity of felled trees exceeds one cubic meter shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed with the intention to sell the cut down tree, or if the quantity of trees cut down exceeds five cubic meters, or if the offence was committed in a protection forest, a national park or other special purpose forest, the perpetrator shall be punished by a prison term from three months to three years and by a fine.

(3) An attempted offence as of paras 1 and 2 above shall be subject to punishment.

## **Unlawful Hunting**

### **Article 325**

(1) Anyone who hunts game in closed hunting season or in a territory where hunting is forbidden shall be punished by a fine or a prison term up to six months.

(2) Anyone who without authorization hunts game in a preserve of another person and kills or wounds game or catches it alive shall be punished by a fine or a prison term up to one year.

(3) Where the offence under para. 2 above was committed against big game, the perpetrator shall be punished by a fine or a prison term up to two years.

(4) Anyone who hunts game the hunting of which is forbidden or who hunts without a special permit a particular type of game for the hunting of which such a permit is required, or who hunts in a manner or by means which cause mass killing of game shall be punished by a prison term up to three years.

(5) The game hunted and the means used for hunting shall be confiscated.

## **Unlawful Fishing**

### **Article 326**

(1) Anyone who catches fish or other aquatic animals in closed hunting season or in waters in which fishing is forbidden shall be punished by a fine or a prison term up to six months.

(2) Anyone who uses explosives, electric current, poison, overpowering agents or otherwise does so in a manner harmful to breeding of fish and other aquatic animals or in a manner used for mass killing of such animals shall be punished by a prison term up to three years.

(3) Anyone who catches fish or other aquatic animals of higher biological value or in a larger quantity, or who destroys larger quantity of fish or other aquatic animals in fishing shall be subject to the punishment under para. 2 above.

(4) The catch and the means used for fishing shall be confiscated.

## **Illegal Building Construction**

### **Article 326a**

Whoever in breach of regulations governing building construction, spatial planning and development begins to erect a building without having acquired a building permit or erects a building in breach of the issued building permit and technical documentation or a decision by the competent authority banning construction shall be punished by a prison term from six months to five years.

## **Unlawful Connection of Construction Site to Technical Infrastructure**

### **Article 326b**

Whoever, in breach of regulations governing building construction, spatial planning and development, connects to the technical infrastructure (electricity, water supply, sewerage and road) or allows the connection of a construction site, facility under construction or a building facility for which building permit was not issued, shall be punished by a prison term from three months to three years.

## **TITLE TWENTY-SIX CRIMINAL OFFENCES AGAINST GENERAL SAFETY OF PEOPLE AND PROPERTY**

### **Causing General Danger**

#### **Article 327**

(1) Anyone who causes danger to life or body of people or property the value of which exceeds twenty thousand euros through causing fire, flood, explosion, by poison or poisonous gas, radioactive or other ionizing radiation, electrical power, motor power or any other generally dangerous act or means shall be punished by a prison term from six months to five years.

(2) The punishment under para. 1 above shall also apply to a public official or a responsible officer who omits to install the devices prescribed for protection against fires, floods, explosions, poisons or poisonous gases, radioactive or other ionizing radiations, electric power or other harmful means, or omits to maintain these devices as to the functioning level, or if in need omits to use the equipment, or does not observe regulations or technical protection standards at all and thereby causes danger to life or body of people or property the value of which exceeds twenty thousand euros.

(3) Where the offences under paras 1 and 2 above were committed at a place where a large number of people gathered, the perpetrator shall be punished by a prison term from one to six years.

(4) Where the offence under paras 1, 2 and 3 above was committed by negligence, the perpetrator shall be punished by a prison term up to three years.

### **Destroying and Damaging Public Infrastructure**

#### **Article 328**

(1) Anyone who destroys, damages, alters or makes useless or removes public infrastructure items for water supply, heating, gas, electrical or other power or items of telecommunications system or other items of public infrastructure or who obstructs their use shall be punished by a fine or a prison term up to two years.

(2) Where the offence under para. 1 above resulted in significant disturbance in their use, the perpetrator shall be punished by a prison term from three months to five years.

(3) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to six months.

(4) Where the offence under para. 2 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to two years.

### **Causing Danger by Omission to Ensure Protection Measures at Work**

#### **Article 329**

(1) Anyone who in mines, factories, workshops, in construction sites or in some other work place, damages or removes safety equipment and thereby causes danger to life or body of people or to property the value of which exceeds twenty thousand euros shall be punished by a prison term from six months to five years.

(2) The punishment under para. 1 above shall also apply to a responsible officer in a mine, factory, workshop, at a construction site or in some other work place who omits to install safety equipment or does not maintain them at functioning level, or omits to put it in use if need be, or omits to observe occupational health regulations or technical standards and thereby causes danger to life and body of people or property the value of which exceeds twenty thousand euros.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished by a prison term up to three years.

(4) If a suspended sentence is imposed for an offence under para. 2 above, the court may impose an obligation on the perpetrator to ensure safety equipment to be installed, maintained or used within the specified time limit.

### **Irregular and Improper Construction Works**

#### **Article 330**

(1) An officer responsible for designing, managing or executing construction or construction works who omits to observe regulations and generally accepted technical rules in the performance of such works thereby causing danger to life and body of people or property the value of which exceeds twenty thousand euros shall be punished by a prison term from six months to five years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to three years.

### **Damaging Dams and Water Supply Structures**

#### **Article 331**

(1) Anyone who damages or makes useless a dam or other water supply structure or device for the protection against natural disasters shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed against a facility or a device of great significance, the perpetrator shall be punished by a prison term from six months to five years.

(3) Where the offence under para. 2 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to three years.

## **Destroying, Damaging or Removing Danger Warning Signs**

### **Article 332**

(1) Anyone who damages, destroys or removes a danger warning sign of any kind shall be punished by a fine or a prison term up to two years.

(2) The punishment under para. 1 above shall also apply to anyone destroying, damaging or removing a traffic device, means, sign or signalling device or defensive railing serving traffic safety.

## **Abuse of Telecommunication Signals**

### **Article 333**

(1) Anyone who abuses or unnecessarily sends either an internationally agreed signal for call for help or a danger warning signal, or who deceives others by using a telecommunication no danger signal, or who abuses an internationally agreed communication signal shall be punished by a prison term up to three years.

(2) Where the offence under para. 1 above resulted in danger to life or a property the value of which exceeds twenty thousand euros, the perpetrator shall be punished by a prison term from six months to five years.

## **Omission to Eliminate Danger**

### **Article 334**

(1) Anyone who omits to report to a competent authority or other competent entity a fire, flood, an explosion, a traffic accident or some other danger to life or body of people or property the value of which exceeds twenty thousand euros, or who does not 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 term up to one year.

(2) Anyone who prevents another person from taking measures for eliminating fire, flood, explosion, traffic accident or other danger to life or body of people or a

property the value of which exceeds twenty thousand euros shall be punished by a prison term up to three years.

## **Unauthorized Handling of Explosives and Inflammable Materials**

### **Article 335**

(1) Anyone who, in breach of regulations, stores, possesses, transports or hands over for transport by a means of public transport explosive or easily inflammable material or transports such material by himself using a public transport means shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who unlawfully brings explosive or easily inflammable material into a premise or some other facility where a large number of people gather or who brings such material into a place where a large number of people has gathered or will gather.

(3) Anyone who brings into a pit with methane or other inflammable gas or dangerous carbon dust or brings into a facility at an oil or gas field or tries to bring easily inflammable substance or other goods whose bringing into such a pit or facility is forbidden shall be punished by a prison term from three months to three years.

(4) The punishment under para. 3 above shall also apply to anyone who omits to comply with the required protection measures when entering a storehouse, depot or other room storing explosive material.

(5) Where the offence under paras 3 and 4 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

## **Unlawful Acquisition and Disposal of Nuclear Substances**

### **Article 336**

Anyone who unlawfully acquires, possesses, uses, transports, hands over to another person nuclear substances or who makes it possible for another to acquire them shall be punished by a prison term up to three years.

## **Endangering Safety with Nuclear Substances**

### **Article 337**

(1) Anyone who threatens to use a nuclear substance to endanger the safety of humans shall be punished by a prison term from six months to five years.

(2) Where the offence under para. 1 above was committed with the intention to force another person to act or refrain from acting, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where a perpetrator of the offences under paras 1 and 2 above realized his threat thus inflicting a serious bodily injury causing damage to a property exceeding forty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

(4) Where a perpetrator of the offences under paras 1 and 2 above realized his threat thus causing the death of one or more persons, the perpetrator shall be punished by a prison term from three to fifteen years.

## **Grave Offences against General Safety**

### **Article 338**

(1) Where the offences under Articles 327 paras 1 to 3, 328 paras 1 and 2, 329 paras 1 and 2, 330 para. 1 and 333 hereof resulted in serious bodily injury of another person or damage exceeding forty thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(2) Where the offences under Articles 327 paras 1 to 3, 328 paras 1 and 2, 329 paras 1 and 2, 330 para. 1 and 333 hereof resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from two to twelve years.

(3) Where the offences under Articles 327 para. 4, 328 paras 3 and 4, 329 para. 3 and 330 para. 2 hereof resulted in serious bodily injury of another person or damage exceeding forty thousand euros, the perpetrator shall be punished by a prison term up to four years.

(4) Where the offences under Articles 327 para. 4, 328 paras 3 and 4, 329 para. 3 and 330 para. 2 hereof resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from one to eight years.

## **TITLE TWENTY-SEVEN CRIMINAL OFFENCES AGAINST PUBLIC TRAFFIC SAFETY**

### **Endangering Public Traffic**

#### **Article 339**

(1) A road traffic participant who omits to observe traffic safety regulations thereby endangering public traffic to an extent that endangers life or body of people or property the value of which exceeds twenty thousand euros and who causes a light bodily injury to another person or damage exceeding three thousand euros shall be punished by a fine or a prison term up to three years.

(2) Anyone who omits to observe traffic safety regulations thereby endangering railroad, ship, bus, or cable railway traffic to an extent that endangers life and body of



people or property the value of which exceeds twenty thousand euros shall be punished by a prison term from six months to six years.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

### **Endangering Traffic Safety by Dangerous Acts or Means**

#### **Article 340**

(1) Anyone who destroys, removes or severely damages traffic installations, instruments, signalling markings or devices, or road safety rails, or who by giving a wrong signal or sign, or by setting up blocking instruments on the road or otherwise endangers public traffic to an extent that endangers life and body of people or property the value of which exceeds twenty thousand euros shall be punished by a prison term up to three years.

(2) Anyone who commits the acts referred to in para. 1 above and endangers railroad, ship, bus traffic or cable railway and thereby imperils life and body of people or property the value of which exceeds twenty thousand euros shall be punished by a prison term from six months to five years.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

### **Endangering Air Traffic Safety**

#### **Article 341**

(1) Anyone who manages the flight of an aircraft in breach of rules and regulations, omits to discharge his duties or supervision obligations in relation to air traffic safety, or provides wrong information relevant to flight and aircraft safety, or otherwise endangers air traffic safety shall be punished by a prison term from one to six years.

(2) Where the offence under para. 1 above was committed by negligence or by destroying or damaging navigation devices or inflicting other damage to the aircraft by negligence, the perpetrator shall be punished by a prison term from three months to three years.

### **Endangering Safety of Air and Maritime Traffic or of Fixed Platform**

#### **Article 342**

(1) Anyone who uses violence against persons on an aircraft, ship or fixed platform in the epicontinental shelf, or who endangers the safety of air traffic, maritime navigation or a fixed platform by setting up or bringing 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 shall be punished by a prison term from two to ten years.

(2) Where the offence under para. 1 above results in serious bodily injury on another person or a damage exceeding forty thousand euros, the perpetrator shall be punished by a prison term from two to twelve years.

(3) Where the offence under para. 1 above results in the death of one or more persons, the perpetrator shall be punished by a prison term from five to fifteen years.

### **Hijack of Aircraft, Ship or Other Means of Transport**

#### **Article 343**

(1) Anyone who uses force or threats of using force to take over the control of an aircraft during flight or of a ship or other means of public transport while in motion shall be punished by a prison term from two to ten years.

(2) Anyone who commits the offence under para. 1 above against a fixed platform in the epicontinental shelf shall be punished by a prison term from one to eight years.

(3) Where the offence under paras 1 and 2 above resulted in a serious bodily injury of another person or damage exceeding forty thousand euros, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Where the offence under paras 1 and 2 above resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from five to fifteen years.

### **Omission to Provide Assistance to Ship or Other Vessel or to Persons in Danger at Sea or in Inland Waters**

#### **Article 344**

(1) A commander of a ship, boat or other vessel who takes part in navigation activities, a person who acts on his behalf, or a person who navigates one of the above vessels on his own, who, in breach 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 peril, where he could have undertaken saving operations without any risk for his ship, boat or other vessel shall be punished by a prison term from three months to three years.

(2) A person referred to in para. 1 above who, in breach of regulations, does not remove from the navigable way in inland waters a vessel with which the vessel he is in command of or which he navigates collided, where he could have done so without any risk for that vessel, shall be punished by a prison term up to three years.

### **Piracy**

### **Article 345**

(1) A crew member or passenger of a private ship or private aircraft who at open sea or any place which is not under jurisdiction of any state commits an act of violence or assault and robbery to persons on another ship or aircraft or who arrests, hijacks, damages or destroys another ship or aircraft or goods placed on it, or causes damage exceeding forty thousand euros shall be punished by a prison term from three to fifteen years.

(2) Where as a result of the offence under para. 1 above one or more persons died, the perpetrator shall be punished by a prison term from five to fifteen years.

(3) Where the offence under paras 1 and 2 above was committed by a member of the crew or a passenger on a war or other state-owned ship or military or other state-owned aircraft whose crew has risen to arms or taken over the control of the ship or aircraft shall be punished by the punishment prescribed for that offence.

## **Malpractice in Supervision of Public Traffic**

### **Article 346**

(1) Where a public official or a responsible officer who is entrusted with supervision and maintenance of roads and pertaining facilities, means of transport, or public transport, as well as with supervision of compliance with respect to work conditions for drivers, or who is entrusted with driving management and control operations, improperly conducts his duty thus endangering life or body of people or property the value of which exceeds twenty thousand euros shall be punished by a prison term from six months to five years.

(2) The punishment under para. 1 above shall also apply to 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 of safely steering the vehicle or that the vehicle is not functioning properly, whereby the life and body of people or property the value of which exceeds twenty thousand euros are endangered.

(3) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a prison term up to three years.

## **Omission to Provide Assistance to a Person Injured in Traffic Accident**

### **Article 347**

(1) A driver of a motor vehicle or other means of transport who leaves helpless a person who was hurt by that means of transport or whose injury was caused by that means shall be punished by a fine or a prison term up to two years.

(2) Where omission to provide assistance resulted in a serious bodily injury, the perpetrator shall be punished by a fine or a prison term up to three years.

(3) Where omission to provide assistance resulted in the death of the injured person, the perpetrator shall be punished by a prison term from three months to four years.

## **Grave Offences against Public Traffic Safety**

### **Article 348**

(1) Where the offences under Articles 339 paras 1 and 2, 340 paras 1 and 2, 341 para. 1, 344 and 346 paras 1 and 2 hereof resulted in a serious bodily injury of another person or damage exceeding forty thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(2) Where the offences under Articles 339 paras 1 and 2, 340 paras 1 and 2, 341 para. 1, 344 and 346 paras 1 and 2 hereof resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from two to twelve years.

(3) Where the offences under Articles 339 para. 3, 340 para. 3, 341 para. 2 and 346 para. 3 hereof resulted in a serious bodily injury of another person or a damaged exceeding forty thousand euros, the perpetrator shall be punished by a prison term up to four years.

(4) Where the offences under Articles 339 para. 3, 340 para. 3, 341 para. 2 and 346 para. 3 hereof resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from one to eight years.

## **TITLE TWENTY-EIGHT CRIMINAL OFFENCES AGAINST SAFETY OF COMPUTER DATA**

### **Damaging Computer Data and Programs**

#### **Article 349**

(1) Anyone who without authorization deletes, alters, damages, conceals or otherwise makes useless computer data or program shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above results in damage exceeding three thousand euros, the perpetrator shall be punished by a prison term from three months to three years.

(3) Where the offence under para. 1 above results in damage exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from three months to five years.

(4) The devices and means used for the commission of the criminal offences under paras 1, 2 and 3 above shall be confiscated provided that they are owned by the perpetrator.

### **Computer System Interference**

## **Article 350**

(1) Anyone who enters, destroys, deletes, alters, damages, conceals or otherwise makes useless 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 term up to three years.

(2) Where the offence under para. 1 above was committed against data and programs that are significant for state authorities, public services, institutions, business organizations or other entities, the offence shall be punished by a prison term from one to eight years.

(3) The devices and means used to commit the criminal offences under paras 1 and 2 above shall be confiscated provided that they are owned by the perpetrator.

## **Producing and Entering Computer Viruses**

### **Article 351**

(1) Anyone who makes a computer virus with the intention of entering it into a computer system of another person shall be punished by a fine or a prison term up to one year.

(2) Where the perpetrator entered a computer virus into a computer system of another person and thereby caused damage, he shall be punished by a fine or a prison term up to two years.

(3) The device and means used for commission of the criminal offences under paras 1 and 2 above shall be confiscated.

## **Computer Fraud**

### **Article 352**

(1) Anyone who enters, alters, erases, omits to enter correct data or otherwise conceals or misrepresents a piece of computer data or otherwise interferes with the functioning of a computer system and thereby influences the result of electronic processing, transfer of data and functioning of a computer system with the intention of obtaining illicit pecuniary gain for himself or for another person and thereby causes property damage to another person shall be punished by a prison term from six months to five years.

(2) Where the offence under para. 1 above resulted in pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

(3) Where the offence under para. 1 above resulted in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Where the offence under para. 1 above was committed with the sole purpose of causing damage to another person, the perpetrator shall be punished by a fine or a prison term up to two years.

## **Unauthorized Access to Computer System**

### **Article 353**

(1) Anyone who, without authorization, makes access to the entire computer system or part thereof shall be punished by a fine or a prison term up to one year.

(2) Where the perpetrator committed the offence under para. 1 above by violating the measures for computer system protection, he shall be punished by a fine or a prison term up to three years.

(3) The punishment under para. 2 above shall also apply to anyone who, without authorization, intercepts computer data which are not public, irrespective of the method of their transfer, during their transfer to a computer system, from it or within the system itself, including electromagnetic emission.

(4) Whoever uses the data obtained in the manner referred to in paras 1, 2 and 3 above shall be punished by a fine or a prison term up to three years.

(5) Where the offence under para. 4 above resulted in grave consequences for another person, the perpetrator shall be punished by a prison term from six months to five years.

## **Misuse of Devices and Programs**

### **Article 354**

(1) Whoever produces, sells, procures for use, imports, distributes and otherwise places at disposal:

1) devices and computer programs designed or adapted primarily for the purposes of commission of the offences under Articles 349 to 353 hereof,

2) computer codes or similar data through which one can access the entire computer system or parts thereof with the intention of using it for the purpose of committing the offences under Articles 349 to 353 hereof shall be punished by a prison term from three months to three years.

(2) Anyone who possesses any of the means under para. 1 above with the intention of using them for the purpose of committing any of the offences under Articles 349 to 353 shall be punished by a fine or a prison term up to one year.

## **Unauthorized Access to Protected Computer and Computer Network**

**Article 355**

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**Prevention and Limitation of Access to Public Computer Networks**

**Article 356**

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**TITLE TWENTY-NINE**

**CRIMINAL OFFENCES AGAINST THE CONSTITUTIONAL ORDER AND  
SECURITY OF MONTENEGRO**

**Jeopardizing Independence**

**Article 357**

Anyone who uses unconstitutional means to attempt to bring Montenegro into the position of subordination or dependence in relation to another state shall be punished by a prison term from three to fifteen years.

**Recognition of Capitulation or Occupation**

**Article 358**

A citizen of Montenegro who signs or recognizes capitulation or accepts or recognizes occupation of Montenegro or any part thereof shall be punished by a prison term not shorter than ten years or a forty year prison term.

**Endangering Territorial Integrity**

**Article 359**

(1) Anyone who uses 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 term from three to fifteen years.

**Attack on Constitutional Order**

**Article 360**

Anyone who uses force or a threat of using force to attempt to change the constitutional order of Montenegro shall be punished by a prison term from three to fifteen years.

### **Deposing Highest State Authorities**

#### **Article 361**

Anyone who uses force or a threat of using force to attempt to depose any of the highest state authorities of Montenegro or representatives thereof shall be punished by a prison term from one to eight years.

### **Calling for Violent Change of Constitutional Order**

#### **Article 362**

(1) Anyone who with the intention to endanger the constitutional order or security of Montenegro calls for or incites a forced change of its constitutional order to depose the highest state authorities or representatives thereof shall be punished by a prison term from three months to five years.

(2) Anyone who commits the offence under para. 1 above by means of assistance from abroad shall be punished by a prison term from one to eight years.

(3) Anyone who for the purpose of their distribution produces or reproduces materials the content of which calls for or incites to commission of offences under para. 1 above or who directs or transfers to the territory of Montenegro such material, or keeps a larger quantity thereof for the purpose of their distribution by himself or by another person shall be punished by a prison term from three months to three years.

### **Assassination of Highest Representatives of Montenegro**

#### **Article 363**

Anyone who with the intention to jeopardize the constitutional order or security of Montenegro takes life of 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 term not shorter than ten years or a forty year prison term.

### **Armed Rebellion**

#### **Article 364**

(1) Anyone who participates in an armed rebellion organized for the purpose of jeopardizing the constitutional order, security or territorial integrity of Montenegro shall be punished by a prison term from three to fifteen years.



(2) Anyone who organizes or leads armed rebellion shall be punished by a prison term from five to fifteen years.

## **Terrorism**

### **Article 365**

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## **Diversion**

### **Article 366**

Anyone who with the intention to endanger the constitutional order or security of Montenegro demolishes, sets on fire or otherwise destroys or damages an industrial, agricultural or other industrial facility, means of traffic, 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 term from three to fifteen years.

## **Sabotage**

### **Article 367**

Anyone who with the intention to endanger the constitutional order or security of Montenegro undertakes secret, malicious, and other similar operations in the discharge of his official duty or work obligations thereby causing damage exceeding fifteen thousand euros to the state authority or organization he is employed with, or to any other state authority or organization shall be punished by a prison term from three to fifteen years.

## **Espionage**

### **Article 368**

(1) Anyone who discloses or hands over or makes available to a foreign state, foreign organization or a person in their service classified data or documents shall be punished by a prison term from three to fifteen years.

(2) Anyone who creates an intelligence service in Montenegro or who manages it for a foreign state or organization shall be punished by a prison term from five to fifteen years.

(3) Anyone who joins a foreign intelligence service, collects data for it or otherwise supports its work shall be punished by a prison term from two to ten years.

(4) Anyone who obtains classified data or documents with the intention to disclose them or deliver them to a foreign state, a foreign organization or a person in their service shall be punished by a prison term from one to eight years.

(5) Where the offences under paras 1 and 2 above resulted in severe consequences for the security, economic or military power of the country, the perpetrator shall be punished by a prison term not shorter than ten years.

(6) Classified data are considered to be the data marked with one of the following levels of confidentiality: 'top secret', 'secret', 'confidential' and 'restricted' the disclosure of which would cause or could cause detrimental consequences for the security, defense or for political or economic interests of Montenegro.

## **Disclosure of Confidential Data**

### **Article 369**

(1) Anyone who, without authorization, discloses, hands over or makes available to an unauthorized person confidential data entrusted to him, or data that he obtained in some other manner shall be punished by a prison term from one to eight years.

(2) Where the offence under para. 1 above was committed with respect to confidential data 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 term from three to fifteen years.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished by a prison term from one to six years.

(4) Confidential data are deemed to be the data marked with one of the following levels of confidentiality: 'top secret', 'secret', 'confidential' and 'restricted' the disclosure of which would cause or could cause detrimental consequences for the security, defence or for political or economic interests of Montenegro.

(5) Confidential data within the meaning of this Article shall not considered to be the data directed at endangering the constitutional order and security of Montenegro, gross violations of the fundamental rights of human beings, or the data aimed at concealing a committed criminal offence punishable by law by a prison term of five years or a more severe punishment.

## **Causing National, Racial and Religious Hatred**

### **Article 370**

(1) Anyone who publicly incites to violence or hatred towards a group or a member of a group defined by virtue of race, skin color, religion, origin, national or ethnic affiliation shall be punished by a prison term from six months to five years.

(2) The punishment under para. 1 above shall also apply to anyone who publicly approves, renounces the existence, or significantly reduces the gravity of criminal

offences of genocide, crimes against humanity and war crimes committed against a group or a member of group by virtue of their race, skin color, religion, origin, national 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 established by a final judgment of a court in Montenegro or of the international criminal tribunal.

(3) Where the offence under paras 1 and 2 above was committed by coercion, ill-treatment, endangering of safety, exposure to mockery of national, ethnic or religious symbols, by damaging property of another person, by desecration of monuments, memorials or tombs, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where the offence under paras 1 to 3 above was committed by misuse of office or where such offence result in riots, violence or other severe consequences for the joint life of nations, national minorities or ethnic groups living in Montenegro, the perpetrator shall be punished for the offence under para. 1 above by a prison term from one to eight years and for the offence under paras 2 and 3 by a prison term from two to ten years.

## **Violation of Territorial Sovereignty**

### **Article 371**

Anyone who, in breach of the rules of international law, breaks through the territory of Montenegro shall be punished by a prison term from one to eight years.

## **Association for Activities against Constitution**

### **Article 372**

(1) Anyone who establishes a group or any other association in view of committing criminal offences under Articles 357 to 363, Articles 365 to 367 hereof shall be punished by the punishment provided for the offence for the commission of which the association was organized.

(2) The punishment under para. 1 above shall also apply to anyone conspires with another person to commit any of the offences under para. 1 above, but a lighter punishment may also apply.

(3) Anyone who becomes a member of the association referred to in para. 1 above shall be punished by a prison term from six months to five years.

(4) Anyone who committed the offence under para. 1 above and then revealed or otherwise prevented the commission of the criminal offence under para. 1 above shall be punished by a prison term up to three years, but punishment may also be remitted.

(5) A member of the association referred to in para. 3 above who reveals the existence of an association before committing a criminal offence under para. 1 above as its member or on behalf of it shall be punished by a prison term up to one year, but punishment may also be remitted.

## **Preparing Acts against the Constitutional Order and Security of Montenegro**

### **Article 373**

(1) Anyone who prepares the commission of criminal offences under Articles 357 to 367 and Art.368 paras 1 and 2 hereof shall be punished by a prison term from one to five years.

(2) Anyone who directs or sends to the territory of Montenegro persons or arms, explosive, poisons, equipment, ammunition or other material in view of committing one or more criminal offences under this Chapter shall be punished by a prison term from two to ten years.

(3) The preparatory actions referred to in para. 1 above consist of acquiring or rendering usable the means for commission of a criminal offence, removing obstacles for commission of a criminal offence, arranging, planning or organizing with another person the commission of a criminal offence or of other activities 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 offences under Articles 359 to 361 and Articles 364 to 367 hereof resulted in the death of one or more persons, danger to life of humans, brutal violence or widespread devastation or danger to the security of economic or military power of the country, the perpetrator shall be punished by a prison term not shorter than ten years.

(2) Where during the commission of the offence under para. 1 above the perpetrator took life of one or more persons with wrongful intent, he shall be punished by a prison term not shorter than ten years or a forty year prison term.

(3) The punishment under para. 2 above shall also apply to anyone who commits the criminal offences under Art. 357, Articles 359 to 362, Articles 364 to 368, Articles 372 and 373 para. 2 hereof in a state of war, armed conflict or state of emergency.

## **TITLE THIRTY**

### **CRIMINAL OFFENCES AGAINST STATE AUTHORITIES**

#### **Prevention of Public Officials from Performing Official Acts**

### **Article 375**

(1) Anyone who uses force or threats of directly using force to prevent 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 term from three months to three years.

(2) Where during the commission of the offence under para. 1 above the perpetrator insults or ill-treats a public official or inflicts a light bodily injury or threatens to use weapons, the perpetrator shall be punished by a prison term from three months to three years.

(3) Anyone who commits the offence under paras 1 and 2 above 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 perpetrators or keeping persons deprived of liberty in custody shall be punished by a prison term from six months to five years.

(4) An attempt of any of the offences under paras 1 and 2 above shall be subject to punishment.

(5) Punishment may be remitted where a perpetrator of the criminal offences under paras 1 to 3 above was provoked by a public official's unlawful or rude action.

### **Attack on Public Official in Discharge of Official Duty**

#### **Article 376**

(1) Anyone who attacks or threatens to attack a public official in the discharge of his official duty shall be punished by a prison term up to three years.

(2) Where the offences under para. 1 above resulted in a light bodily injury of the public official or threats by use of weapons, the perpetrator shall be punished by a prison term from three months to five years.

(3) Where the criminal offence under paras 1 and 2 above was committed against a judge or a public prosecutor in relation to their judicial or prosecutorial duty respectively or to a public official in the discharge of his public or state security duties, the perpetrator shall be punished by a prison term from six months to five years.

(4) An attempt of the offence under para. 1 above shall be subject to punishment.

(5) Punishment may be remitted where a perpetrator of the offences under paras 1 to 3 above was provoked by a public official's unlawful or rude actions.

### **Participation in Group Preventing Public Official from Performing Official Acts**

#### **Article 377**

(1) Anyone who is a part of group which acts in conspiracy 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 term up to two years.

(2) An attempted offence shall be subject to punishment.

(3) The mastermind of a group committing the offence under para. 1 above shall be punished by a prison term from six months to five years.

### **Calling for Resistance**

#### **Article 378**

(1) Anyone who calls for resistance or disobedience to lawful decisions or measures of state authorities or to a public official in performing his official act shall be punished by a prison term up to three years.

(2) Where the offence under para. 1 above resulted in non-enforcement or considerable difficulties in the enforcement of lawful decisions or measures of state authorities, the perpetrator shall be punished by a prison term from six months to five years.

### **Omission to Obey Orders to Break Up**

#### **Article 379**

(1) Anyone who omits to part from a group of people that an authorized public official or an authorized military person has asked to break up in circumstances threatening public order shall be punished by a fine or a prison term up to three months.

(2) The mastermind of the group which committed the offence under para. 1 above shall be punished by a fine or a prison term up to two years.

### **Omission to Take Part in Efforts to Eliminate Public Danger**

#### **Article 380**

Anyone who, in breach of an order of a competent authority or other competent entity, without a justified reason refuses to participate in eliminating the danger caused by fire, flood, earthquake or other fatal accident shall be punished by a fine or a prison term up to three months.

### **Removal and Breaking of Official Seals and Signs**

#### **Article 381**

(1) Anyone who removes or breaks an official seal or a sign that an authorized public official placed on an object or premises for security reasons or who without removing or breaking a seal or sign enters such premises or opens an object with an official seal or sign on it shall be punished by a fine or a prison term up to one year.

(2) An attempted offence shall be subject to punishment.

## **Misappropriation and Destruction of Official Seals and Files**

### **Article 382**

(1) Anyone who unlawfully takes, conceals, destroys, damages or otherwise makes useless an official seal, register, file or document owned by a state authority, business organisation, institution or other entity which exercises public powers or held by them shall be punished by a a prison term up to three years.

(2) An attempted offence shall be subject to punishment.

## **False Personation**

### **Article 383**

(1) Anyone who with the intention of obtaining for himself or another person undue advantage or causing damage to another person falsely assumes the identity of a public official or a military person or who wears any signs of a public official or a military person without authorization shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who performs an act that is under exclusive authority of a specific public official or military person.

## **Self-help**

### **Article 384**

(1) Anyone who acquires his right or a right he believes he is entitled to without recourse to legal proceedings shall be punished by a fine or a prison term up to six months.

(2) Where the offence under para. 1 above was committed by use of force or threat, the perpetrator shall be punished by a prison term from three months to three years.

(3) Where the offence under para. 1 above was committed by a threat, murder or a serious bodily injury, the perpetrator shall be punished by a prison term from six months to five years.

(4) Anyone who commits the offence under paras 1 to 3 above for another person shall be punished by the punishment laid down for that offence.

(5) Where the offence under paras 1 and 4 in conjunction with para. 1 above was committed against citizens, prosecution shall be initiated by a private charge.

## **TITLE THIRTY-ONE**

## **CRIMINAL OFFENCES AGAINST JUDICIARY**

## **Omission to Report Preparation of Criminal Offence**

### **Article 385**

(1) Anyone who had knowledge that preparation was underway for commission of a criminal offence punishable by law by a prison term of five years or longer, but omitted to report it at a time such an offence could have still been prevented, and the offence was eventually attempted or committed shall be punished by a fine or a prison term up to one year.

(2) For omission to report the preparation of a criminal offence punishable by law by a forty year prison term, the perpetrator shall be punished by a prison term from three months to three years.

(3) Persons to whom the perpetrator is a spouse, a partner in a durable customary marriage, direct blood relative, brother or sister, adoptive parent or adopted child, as well as a 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 under para. 1 above.

## **Omission to Report Criminal Offences and Perpetrators**

### **Article 386**

(1) Anyone who knows that a person has committed a criminal offence punishable by law by a forty year prison term or who knows that such a criminal offence has been committed but omits to report it before such criminal offence and the perpetrator are detected shall be punished by a prison term up to two years.

(2) The punishment under para. 1 above shall also apply to a public official or responsible officer who knowingly omits to report the crime he has been informed about in the performance of his official duty, where the criminal offence is punishable by law by a prison term of five years or longer.

(3) The punishment for omission to report the crime or perpetrator referred to in paras 1 and 2 above shall not apply to persons to whom the perpetrator is a spouse or a partner in a durable customary marriage, direct blood relative, brother or sister, adoptive parent or adopted child, or a spouse to one of the above mentioned persons or a person living with one of such persons in a durable customary marriage, or a defence counsel, doctor or religious confessor of the perpetrator.

## **Assistance to Perpetrator after Commission of Criminal Offence**

### **Article 387**

(1) Anyone who conceals a perpetrator or assists a perpetrator by hiding the means or traces of a criminal offence, or otherwise assists him to avoid detection, and who conceals a convicted person or takes any other measures with the intention to avoid the enforcement of an imposed punishment, a security measure, or placement with a



community-based correctional institution or correctional home shall be punished by a fine or a prison term up to two years.

(2) Anyone who assists a perpetrator of an offence punishable under law by a prison term exceeding five years shall be punished by a prison term from three months to five years.

(3) Anyone who assists a perpetrator of an offence punishable under law by a forty year prison term shall be punished by a prison term from one to eight years.

(4) The punishment imposed for the criminal offence under para. 1 above shall not be more severe in terms of its type or duration than the punishment prescribed for the criminal offence committed by the person who has been provided assistance.

(5) The punishment for the offences under paras 1 to 3 above shall not apply to the persons to whom the perpetrator is a spouse or a partner in a durable customary marriage, direct blood relative, brother or sister, adoptive parent or adopted child, or a spouse to one of the above mentioned persons, or a person living with one of such persons in a durable customary marriage.

## **Fraudulent Crime Reporting**

### **Article 388**

(1) Anyone who reports a person to have committed a criminal offence prosecuted *ex officio* knowing that person is not the perpetrator of that crime shall be punished by a prison term from three months to three years.

(2) The punishment under para. 1 above shall also apply to anyone who plants traces of a criminal offence or otherwise causes criminal proceedings to be initiated for a criminal offence prosecuted *ex officio* against a person who he knows is not the perpetrator of that criminal offence.

(3) Anyone who reports himself for having committed a criminal offence prosecuted *ex officio* knowing he has not committed such a criminal offence shall be punished by a fine or a prison term up to one year.

(4) The punishment under para. 3 above shall also apply to anyone who reports that a criminal offence prosecuted *ex officio* has been committed knowing that no such crime has been committed.

## **Giving a False Testimony**

### **Article 389**

(1) A witness, expert witness, translator or interpreter who gives a false testimony before the court in a disciplinary, misdemeanor or administrative procedure or any other procedure laid down by law shall be punished by a prison term up to three years.

(2) The punishment under para. 1 above shall also apply to a party who in the course of presentation of evidence by hearing parties in a court or administrative procedure gives a false testimony, when such a testimony serves as grounds for the decision passed in that procedure.

(3) Where a false testimony was given in criminal proceedings, the perpetrator giving such a testimony shall be punished by a prison term from three months to five years.

(4) Where the offence under para. 3 above resulted in particularly grave consequences for the accused, the perpetrator shall be punished by a prison term from one year to eight years.

(5) If the perpetrator revokes the false testimony of his own free will before the final decision is passed, he shall be punished by a fine or a prison term up to three months, and punishment may also be remitted.

## **Interference in Production of Evidence**

### **Article 390**

(1) Anyone who gives, offers or promises a gift or other undue advantage to a witness or expert witness or other participant before a court or other state authority or who uses force or threat against him in order for that person to affect the outcome of the proceedings by giving false testimony or by refraining from giving a testimony shall be punished by a prison term from six months to five years.

(2) Anyone who with the intention to prevent or impede production of evidence conceals, destroys, damages, or makes unusable in whole or in part someone else's document or other objects which serve as evidence shall be punished by a fine or a prison term up to one year.

(3) The punishment under para. 2 above shall also apply to anyone who with the intention referred to in para. 2 hereof removes, destroys, damages, moves or relocates a borderline stone, land registry mark or any other mark indicating ownership of real estate or right to the use of water, or a person who fraudulently places such a mark with the same intention.

## **Violation of Confidentiality of Procedure**

### **Article 391**

(1) Anyone who, without authorization, discloses information obtained in a court, misdemeanor, administrative or other legally defined procedure, where such information may not be publicized under law or where it has been declared secret by the decision of a court or other competent authority shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply to anyone who, without the permission of the court, publicizes the course of the criminal proceedings conducted against juveniles or the decision passed in such a procedure or who publicizes the name of a juvenile who is being prosecuted or the data revealing the identity of the juvenile.

(3) Anyone who, without authorization, discloses identity data or personal data of the person protected in a criminal proceeding or under a special protection program shall be punished by a prison term up to three years.

(4) Where the offence under para. 3 resulted in grave consequences for the protected person or prevention or serious complications in the criminal proceeding, the perpetrator shall be punished by a prison term from six months to five years.

### **Riot of Persons Deprived of Liberty**

#### **Article 392**

(1) Where persons who are deprived of their liberty by law gather with the intention to free themselves by force, or to jointly attack persons entrusted with the duty to guard them, or force such guards by using violence or threat of using immediate violence to act or refrain from acting in breach of their duty, they shall be punished by a prison term up to three years.

(2) The perpetrator referred to in para. 1 above who used force or threat shall be punished by a prison term from six months to five years.

### **Escape of Persons Deprived of Liberty**

#### **Article 393**

Where a person who is deprived of liberty by law uses violence against another person or threats of directly attacking life and body of another person escapes, he shall be punished by a prison term from three months to five years.

### **Enabling Escape of Persons Deprived of Liberty**

#### **Article 394**

(1) Anyone who uses force, threat, deception or otherwise enables the escape of a person deprived of his liberty by law shall be punished by a prison term from three months to five years.

(2) Where the offence under para. 1 above was committed jointly by several persons or where escape of several persons was enabled, the perpetrator shall be punished by a prison term from one to eight years.

### **Omission 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 term up to two years.

(2) If the person referred to in para. 1 above enforces a final and enforceable judicial decision, prosecution shall not be instituted, and if instituted, it shall be suspended.

**Unlawful Enabling Another to Engage in Profession,  
Perform an Office, Duty, Affairs and Activities**

**Article 396**

Anyone who 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 protective measure or that such disqualification took effect as a legal consequence of conviction shall be punished by a fine or a prison term up to two years.

**Unlicensed Practice of Law**

**Article 397**

Anyone who without required professional qualifications provides legal assistance for a fee shall be punished by a fine or a prison term up to two years.

**TITLE THIRTY-TWO**

**CRIMINAL OFFENCES AGAINST PUBLIC LAW AND ORDER**

**Causing Panic and Disorder**

**Article 398**

(1) Anyone who by disclosing or spreading false news or allegations causes panic or seriously disrupts public law and order, thwarts or hampers the enforcement of decisions and measures of state authorities or organizations exercising public powers shall be punished by a fine or a prison term up to one year.

(2) Where the offence under para. 1 above was committed through media or other means of public information or other similar means or at a public meeting, the perpetrator shall be punished by a prison term up to three years.

**Violent Behaviour**

**Article 399**

Anyone who, by rude insults or illtreatment of other persons, by acts of violence over another person or by causing an affray, or by rude and arrogant conduct endangers the peace of citizens or disturbs public law and order, where such acts are committed by

a group, or where they resulted in light bodily injury or grave degradation of citizens shall be punished by a prison term from three months to five years.

## **Conspiracy to Commit a Crime**

### **Article 400**

Anyone who conspires with another to commit a criminal offence punishable by a prison term of five years or longer shall be punished by a fine or a prison term up to one year.

## **Criminal Association**

### **Article 401**

(1) Anyone who organizes a group or other association with a view to commit criminal offences punishable by a prison term of one year or longer shall be punished by a prison term up to three years.

(2) Where the offence under para. 1 above refers to an association that aims to commit criminal offences punishable by a prison term of five years or longer, the mastermind of the association shall be punished by a prison term from one to eight years, and a member of the association by a prison term up to two years.

(3) Where the offence under para. 1 above refers to an association that aims to commit criminal offences punishable by a fifteen year prison term, the mastermind of the association shall be punished by a prison term from two to twelve years, and a member of the association by a prison term up to three years.

(4) Where the offence under para. 1 above refers to an association that aims to commit criminal offences punishable by a twenty year prison term or a forty year prison term, the mastermind of the association shall be punished by a prison term not shorter than ten years or a thirty year prison term, and a member of the association by a prison term from six months to five years.

(5) The mastermind of the association referred to in paras 1 to 4 above who reveals the association or otherwise prevents the commission of criminal offences for which the association was founded shall be punished by a prison term up to three years, and his punishment may also be remitted.

(6) Punishment may also be remitted where a member of the association referred to in paras 2, 3 and 4 above reveals the association and contributes to its revelation.

(7) The organizer and a member of the association who commits a criminal offence as a member of association shall be punished for that criminal offence as well.

## **Establishment of Criminal Organization**

### **Article 401a**

(1) Whoever organizes a criminal organization aimed at committing criminal offences punishable by law by a prison term of four years or a more severe punishment shall be punished by a prison term from three to fifteen years.

(2) A member of the criminal organization referred to in para. 1 above shall be punished by a prison term from one to eight years.

(3) The mastermind of a criminal organization who prevents the commission of criminal offences for the purpose of which the organization was created by revealing the criminal organization or otherwise shall be punished by a prison term from three months to three years and his punishment may also be remitted.

(4) A member of a criminal organization who reveals the criminal organization or contributes to it being revealed shall be punished by a prison term up to one year, and his punishment may also be remitted.

(5) The mastermind and a member of a criminal organization who commits a criminal offence as a member of criminal organization shall be punished for that offence as well.

(6) The criminal organization referred to in para. 1 above shall be considered to include the organization composed of three or more persons which has as its objective the commission of criminal offences punishable by law by a four year prison term or a more severe punishment for the purpose of obtaining unlawful gain or power, provided that minimum three of the following conditions are met:

1) that each member of the criminal organization had a predefined or obviously definable task or role;

2) that activities of the criminal organization have been planned for a longer period of time or for an unlimited period;

3) that the activities of the criminal organization are based on the application of certain rules of internal control and member discipline;

4) that the activities of the criminal organization are planned and implemented in international proportions;

5) that activities of the criminal organization include the application of violence or intimidation or that there is readiness for their application;

6) that activities of the criminal organization include the use of economic or business structures;

7) that activities of the criminal organization include laundering of money or illicit proceeds or

8) that there is an influence of the criminal organization or its part upon the political authority, media, legislative, executive or judicial powers or other important social or economic factors.

## **Manufacture and Acquisition of Weapons and Means Intended for Commission of Criminal Offences**

### **Article 402**

(1) Anyone who manufactures, procures or provides another person with weapons, explosives, means required for their manufacture or poison that he knows are intended for the commission of a criminal offence shall be punished by a prison term from six months to five years.

(2) Anyone who manufactures or hands over to another person the means for unlawful breaking and entering into structures knowing that such means are intended for the commission of a criminal offence shall be punished by a fine or a prison term up to one year.

## **Unlawful Possession of Weapons and Explosive Substances**

### **Article 403**

(1) Anyone who, without authorization, manufactures, sells, procures, exchanges, carries or possesses firearms, ammunition or explosive substances shall be punished by a prison term from three months to three years.

(2) Anyone who, without authorization, possesses, carries, manufactures, repairs, processes, sells, procures, exchanges, transports or otherwise puts into circulation firearms, ammunition, explosive substances, fragmentation or gas weapons whose possession is prohibited to the citizens shall be punished by a prison term from six months to five years.

(3) Where the object of the offence under paras 1 and 2 is a larger quantity of weapons or means or where the object is a weapon or other means of large destructive power, the perpetrator shall be punished by a prison term from one to eight years.

## **Participation in Group Committing a Criminal Offence**

### **Article 404**

(1) Anyone who participates in a group that conspires and kills another person, or inflicts to another person a serious bodily injury, commits arson, significantly damages property the value of which exceeds twenty thousand euros or commits other criminal offence punishable by a prison term of five years or longer, or attempts to commit one of these offences shall be punished for participation itself by a prison term from three months to five years.

(2) The mastermind of the group committing any of the crimes under para. 1 above shall be punished by a prison term from one to eight years.

## **Illegal Crossing of State Border and Smuggling of Persons**

### **Article 405**

(1) Anyone who, without the required permission, crosses or attempts to cross the state border of Montenegro under arms or by use of force shall be punished by a prison term up to one year.

(2) Anyone who is engaged in illegal transfer of other persons across the border of Montenegro, or who enables another person in return for a gain to illegally cross the border or to illegally stay or transit shall be punished by a prison term from three months to five years.

(3) Where the offence under para. 2 above was committed by several persons in an organized manner, through misuse 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 number of people is smuggled, the perpetrator shall be punished by a prison term from one to ten years.

(4) The means intended for or used for the commission of the offences under paras 1 to 3 above shall be confiscated.

### **Abuse of Help and Danger Signs**

#### **Article 406**

Anyone who abuses the sign for help or sign for danger or who calls for help for no good reason thus unnecessarily causing state authorities, fire prevention or other competent organizations to take measures or who causes disorder in traffic shall be punished by a fine or a prison term up to six months.

### **Unauthorized Organization of Games of Chance**

#### **Article 407**

(1) Anyone who, without an approval issued by a competent authority, organizes games of chance shall be punished by a fine or a prison term up to three years.

(2) Anyone who, without authorization, sells lottery tickets or accepts payment for games of chance organized abroad shall be punished by a fine or a prison term up to two years.

(3) A person who organizes games of chance or participates in a game referred to in para. 1 above using deception shall be punished by a prison term from three months to five years.

(4) The means intended or used for the commission of the offences under paras 1 to 3 above as well as money and other objects used in games of chance shall be confiscated.

### **Unlicensed Practice of Profession**

#### **Article 408**

Anyone who, without authorisation and for remuneration, engages in a profession which requires by law or other regulations enacted on the basis of law a permit issued by a competent authority or entity shall be punished by a fine or a prison term up to one year.



## **Unauthorized Ownership and Use of Radio and Television Station**

### **Article 409**

Anyone who owns or uses a radio or television station in breach of regulations governing communication systems shall be punished by a fine or a prison term up to one year.

## **Desecration of Corpse**

### **Article 410**

Anyone who, without authorization, digs out, 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 term up to one year.

## **Desecration of Grave**

### **Article 411**

(1) Anyone who, without authorization, digs out, demolishes, damages or significantly desecrates a grave or other place where a deceased person was buried shall be punished by a fine or a prison term up to one year.

(2) The punishment under para. 1 above shall also apply on anyone who, without authorization, destroys, damages or removes or significantly desecrates a gravestone or other memorial to the deceased.

(3) If elements of a more serious criminal offence were satisfied through the offences under paras 1 and 2 above, the perpetrator shall be punished for that offence.

## **Injury and Unlawful Erection of Memorials**

### **Article 411a**

Anyone who damages, destroys, alters without authorization, 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 term from one to three years.

## **TITLE THIRTY-THREE**

## **CRIMINAL OFFENCES AGAINST LEGAL PROCEDURES**

## **Counterfeiting Documents**

### **Article 412**

(1) Anyone who produces a counterfeit document or issues a false document or changes a genuine document with the intention to use it as a genuine one, or anyone who uses such counterfeit or false document as a genuine one or who obtains it for use shall be punished by a prison term up to three years.

(2) Where the offence under para. 1 above was committed with respect to a public document, a will, bill of exchange, cheque, public or official records or other records that must be kept under law, the perpetrator shall be punished by a prison term from three months to five years.

(3) An attempt of the offence under para. 1 above shall be subject to punishment.

## **Special Cases of Counterfeit Document**

### **Article 413**

The following persons shall be deemed to be counterfeiting documents and shall be punished pursuant to Art.412 hereof:

1) anyone who, without authorization, fills in a statement that is affecting the legal relations on a paper, blank form or any other item to which someone has affixed his signature,

2) anyone who deceives another person with regard to the content of a document so as to make another affix his signature on that document believing that he is signing another document or a different content,

3) anyone who issues a document on behalf of another person without his authorization or on behalf of a person who does not exist,

4) anyone who, as the party issuing a document, places next to his signature the position, rank or title although he holds no such position, rank or title, where this is crucial for the probative force of that document,

5) anyone who produces a document by using a genuine seal or sign without authorization.

## **Counterfeiting of Official Document**

### **Article 414**

(1) A public official who enters false data or omits to enter important data in an official document, record or file, or who certifies with his signature or official seal an official document, record or file with false content, or who with his signature or official seal enables another person to produce an official document, record or file with false content shall be punished by a prison term from three months to five years.

(2) The punishment under para. 1 above shall also apply to a public official who uses a false official document, record or file as if they were truthful, or who destroys, conceals or significantly damages or otherwise makes useless an official document, record or file.

(3) A responsible officer in a business organisation, institution or other entity who commits the offence under paras 1 and 2 above shall be punished by the punishment prescribed for that offence.

### **Instigation to Authenticate False Content**

#### **Article 415**

(1) Anyone who misleads a competent authority to authenticate in a public document, record or register any false information that may be used as evidence in legal procedures shall be punished by a prison term from three months to five years.

(2) The punishment under para. 1 above shall also apply to anyone who uses such document, record or register knowing they are false.

### **TITLE THIRTY-FOUR**

### **CRIMINAL OFFENCES AGAINST OFFICIAL DUTY**

#### **Misuse 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 person undue advantage, or causes damage to another person or severely violates the rights of another person shall be punished by a prison term from six months to five years.

(2) Where the commission of the offence under para. 1 above resulted in pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the value of pecuniary gain exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from two to twelve years.

#### **Malpractice in Office**

#### **Article 417**

(1) A public official who, in breach of law or other regulations or general legal acts, refrains from conducting his supervision duty, and otherwise improperly acts while acting in his official capacity although he knew or could have known and was obliged to

know that this may result in severe violation of rights of another person or damage to the property of another person, provided that such a violation or damage exceeding three thousand euros actually takes place, shall be punished by a fine or a prison term up to three years.

(2) Where the offences under para. 1 above resulted in grave violation of rights of another person or damage exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from six months to five years.

(3) A responsible officer in an institution or other entity, with the exception of those engaged in a business activity, who commits the offences under paras 1 to 2 above shall be punished by the punishment 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 term up to three years.

## **Fraud in the Conduct of Official Duty**

### **Article 419**

(1) A public official who, while acting in his official capacity, with the intention of obtaining for himself or another person illicit pecuniary gain by submitting false statements of account or who otherwise misleads an authorized person to make an unlawful payment shall be punished by a prison term from six months to five years.

(2) Where the pecuniary gain obtained as a result of the offence under para. 1 above exceeds three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under para. 1 above results in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

## **Embezzlement**

### **Article 420**

(1) A person who, with the intention of acquiring illicit pecuniary gain for himself or another person, appropriates money, securities or other movable 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 term from six months to five years.

(2) Where the offence under para. 1 above resulted in pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under para. 1 above resulted in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

### **Temporary Diversion of Property**

#### **Article 421**

Anyone who, without authorization, diverts money, securities or other movable property entrusted to him by virtue of his office or work in a state authority, business entity, institution, or in some other entity or a crafts establishment or who, without authorization, temporarily diverts such property to another person for his use shall be punished by a prison term from three months to three years.

### **Fraud in the Conduct of Official Duty, Embezzlement and Temporary Diversion of Property as Petty Offence**

#### **Article 421a**

(1) Where fraud in the conduct of his official duty, embezzlement or diversion of property constitute petty offences, the perpetrator shall be punished by a fine or a prison term up to one year.

(2) Fraud in the conduct of official duty, embezzlement and diversion of property shall be considered petty offences where the amount of unlawful payment, the value of obtained pecuniary gain, the value of embezzled things, or of the property that the perpetrator temporarily diverted without authorization does not exceed one hundred and fifty euros, where the perpetrator's intention was to obtain a small pecuniary gain.

### **Trading in Influence**

#### **Article 422**

(1) Anyone who either directly or through third persons solicits or receives a gift or any other undue advantage, or who accepts a promise of a gift or other undue advantage for himself or for another person for agreeing to use his official or social position or his real or supposed influence in order that an official act be performed or not performed shall be punished by a prison term from three months to three years.

(2) Anyone who takes advantage of his official or social position or his real or supposed influence to intercede or promise to intercede that an official act which must not be performed be performed or so that an official act not be performed which must be performed shall be punished by a prison term from six months to five years.

(3) Where the influence referred to in para. 2 above was traded for a gift or other undue advantage, the perpetrator shall be punished by a prison term from one to eight years.

(4) The gift received or other undue advantage gained shall be confiscated.

### **Incitement to Trading in Influence**

#### **Article 422a**

(1) Anyone who either directly or through third persons gives, offers or promises a gift or any other undue advantage 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 term up to two years.

(2) Anyone who directly or through third persons gives, offers or promises a gift or any other undue advantage to a public official or any other person for agreeing to take advantage of his official or social influence 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 term from three months to three years.

(3) Punishment may be remitted where a perpetrator of the offences under paras 1 and 2 above had reported the criminal offence before he learned it had been detected.

(4) The gift received or any other undue advantage gained shall be confiscated.

### **Passive Bribery**

#### **Article 423**

(1) A public official who directly or indirectly solicits or receives a gift or any other undue advantage, or who accepts a promise of a gift or any undue advantage for himself or for another person for agreeing to perform an official or other act which he must not perform, or not to perform an official or other act which he must perform shall be punished by a prison term from two to twelve years.

(2) A public official who directly or indirectly solicits or receives a gift or any other undue advantage, or who accepts a promise of gift or any undue advantage for himself or another person for agreeing to perform an official or other act which he must perform, or not to perform an official or other act which he must not perform shall be punished by a prison term from two to eight years.

(3) A public official who commits the offences under paras 1 or 2 above in relation to detection of a criminal offence, initiating or conducting of criminal proceedings, pronouncing or enforcing of a criminal sanction shall be punished by a prison term from three to fifteen years.

(4) A public official who after performing an official or other act or after refraining from performing an official or other act as envisaged by paras 1, 2 and 3 above, or in conjunction with such acts, solicits or receives a gift or other undue advantage shall be punished by a prison term from three months to three years.

(5) A foreign public official who commits any of the offences under paras 1, 2, 3 and 4 above shall be punished by the punishment prescribed for that offence.

(6) Where a responsible officer or another person in an institution or other non-commercial entity commits any of the offences under paras 1, 2 and 4 above shall be punished by the punishment prescribed for that offence.

(7) The gift received or any other undue advantage gained shall be confiscated.

### **Active Bribery**

#### **Article 424**

(1) Anyone who gives, offers or promises a gift or other undue advantage for himself or for another person to a public official or 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 anyone who intercedes in bribing a public official in the manner described above shall be punished by a prison term from six months to five years.

(2) Anyone who gives, offers or promises a gift or other undue advantage to a public official or other 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 anyone who intercedes in bribing a public official in the manner described above shall be punished by a prison term up to three years.

(3) The provisions of paras 1 and 2 above shall also apply where a gift or other undue advantage was given, offered or promised to a foreign public official.

(4) The punishment may be remitted where a perpetrator of the offences under paras 1, 2 and 3 above had reported the criminal offence before he learned that the crime had been detected.

(5) The provisions of paras 1, 2 and 4 above shall also apply when a gift or other undue advantage was given, offered or promised to a responsible officer or other person in an institution or another non-commercial entity.

### **Disclosure of Official Secret**

#### **Article 425**

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## **TITLE THIRTY-FIVE**

### **CRIMINAL OFFENCES AGAINST HUMANITY AND OTHER VALUES GUARANTEED BY INTERNATIONAL LAW**

## **Genocide**

### **Article 426**

Anyone who with the intention of partly or completely destroying a national, ethnic, racial or religious group issues orders for the commission of murders or infliction of serious bodily injuries or serious destruction of physical or mental health of group members or placement of the group under such living conditions as to bring about complete or partial extermination of the group, or taking of measures with which to prevent reproduction among group members, or forced displacement of children into another group, or who commits any of the said crimes with the same intention shall be punished by a prison term not shorter than eight years or by a forty year prison term.

## **Crimes against Humanity**

### **Article 427**

Anyone who by breaching the rules of international law, within the limits of a wider or systematic attack against civilian population, orders any of the following: murders; placing the population or its part under such living conditions as to bring about their complete or partial extermination; enslavement; forced displacement; torture; rape; coercion to prostitution; coercion to pregnancy or sterilization with a view to changing the ethnic composition of the population; persecution or expulsion on political, religious, racial, national, ethnic, cultural, sexual or any other grounds; detention or abduction of persons without disclosing information thereon so as to deprive them of legal assistance; oppression of a racial group or establishment of domination of one such group over another; or any other similar inhuman acts intended to cause serious suffering or seriously harm health; or who commits any of the said offences shall be punished by a prison term not shorter than five years or by a forty year prison term.

## **War Crime against Civilian Population**

### **Article 428**

(1) Anyone who, in breach of the rules of international law, in state of war, armed conflict or occupation orders an attack upon civilian population, settlement, individual civilians, persons incapacitated for combat or members or facilities of humanitarian organizations or peace-keeping missions; an attack without a specific target which strikes civilian population or civilian facilities under special protection of international law; an attack upon military targets that was known to cause killing of civilian population or damage to civilian facilities in obvious disproportion to the expected military effect; 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 extensive suffering, or orders displacement or movement or forced 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 service in armed forces of an enemy force or its intelligence service or administration; forced service in armed forces of persons under the age of seventeen; forced labour; starving of population; unlawful confiscation, misappropriation, or destruction of property which belongs to civilian population and which is not justified by military needs; taking an unlawful and excessive contribution and requisition; devaluation of local currency or unlawful issuance of currency or who commits any of the said offences shall be punished by a prison term not shorter than five years.

(2) The punishment under para. 1 above shall also apply to anyone who by breaching the rules of international law during a war, armed conflict or occupation orders any of the following: an attack upon facilities under special protection of international law or facilities and installations of dangerous power such as dams, embankments, and nuclear power plants; strikes at civilian facilities under special protection of international law, places without defence and demilitarised zones; long term and extensive damage to environment that can cause harm to health or survival of population or who commits any of the said offences.

(3) Anyone who during a war, armed conflict or occupation orders murders against civilian population or who commits such a crime shall be punished by a prison term not shorter than ten years or by a forty year prison term.

(4) Anyone who by breaching the rules of international law during a war, armed conflict or occupation, as an occupying force, orders or commits displacement of a part of its own civilian population to the occupied territory shall be punished by a prison term not shorter than five years.

(5) Anyone who threatens to commit one or more of the offences under paras 1 and 2 above shall be punished by a prison term from six months to five years.

## **War Crime against the Wounded and Sick**

### **Article 429**

(1) Anyone who, in breach of rules of international law, in state of war or armed conflict orders against the wounded, sick, shipwrecked or medical or religious service staff, infliction of bodily injuries, torture, inhuman treatment, biological, medical or other scientific experiments, taking of tissue or body organs for transplantation or other acts causing harm to health or inflicting serious suffering or ordering unlawful destruction or large scale appropriation of materials, means of transport for medical purpose and stocks of medical institutions or units that is not justified by military needs or who commits any of the said offences shall be punished by a prison term not shorter than five years.

(2) Anyone who during a war, armed conflict or occupation orders murder of the wounded or the sick or commits such a crime shall be punished by a prison term not shorter than ten years or by a forty year prison term.

## **War Crime against Prisoners of War**

### **Article 430**

(1) Anyone who, in breach of rules of international law, orders against prisoners of war the infliction of bodily injuries, torture, inhuman treatment, biological, medical or other scientific experiments, taking of tissues or body organs for transplantation, or commission of other acts so as to harm health and cause serious suffering or orders coercion to service in armed forces of the enemy, deprivation of the right to a just and impartial trial; or who commits any of the said offences shall be punished by a prison term not shorter than five years.

(2) Anyone who during a war, armed conflict, or occupation orders murders of prisoners of war or who commits such a crime shall be punished by a prison term not shorter than ten years or by a forty year prison term.

## **Organization and Instigation to Commit Genocide and War Crimes**

### **Article 431**

(1) Anyone who conspires with another to commit any of the criminal offence under Articles 426 to 430 hereof shall be punished by a prison term from three months to three years.

(2) Anyone who organizes a group in view of committing any of the criminal offences under para. 1 above shall be punished by a prison term from five to fifteen years.

(3) Anyone who becomes a member of the group referred to in para. 1 above shall be punished by a prison term from one to eight years.

(4) A perpetrator of the offences under paras 1 and 3 above who discloses the conspiracy or group before committing a criminal offence as its member or on behalf of the group, and a perpetrator of the offence under para. 2 above who prevents the commission of the offences under para. 1 above may receive a lighter punishment.

(5) Anyone who calls for or incites to the commission of any of the criminal offences under Articles 426 to 430 hereof shall be punished by a prison term from two to ten years.

## **Use of Forbidden Combat Device**

### **Article 432**

(1) Anyone who in state of war or armed conflict orders the use of combat device or combat method prohibited under the rules of international law or who uses them himself shall be punished by a prison term from two to ten years.

(2) Where the offences under para. 1 above result in the death of several persons, the perpetrator shall be punished by a prison term not shorter than five years or by a forty year prison term.

(3) Anyone who calls for or prepares the use of combat devices or fighting methods referred to in para. 1 above shall be punished by a prison term from six months to five years.

## **Unlawful Manufacture of Prohibited Weapons**

### **Article 433**

(1) Anyone who, in breach of law, other regulations or rules of international law, manufactures, purchases, sells, imports, exports or otherwise obtains and provides another person with, possesses or transports weapons the manufacture or use of which is prohibited or the materials required for their manufacture shall be punished by a prison 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 referred to in para. 1 above shall be punished by a prison term from one to eight years.

## **Unlawful Killing and Wounding of Enemies**

### **Article 434**

(1) Anyone who, in breach of rules of international law, in state 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 term from one to fifteen years.

(2) Where the killing under para. 1 above was committed in an insidious manner or out of base motives, the perpetrator shall be punished by a prison term not shorter than ten years.

(3) Where the killing under para. 1 above was committed in a cruel manner or out of gain or if several persons were murdered, the perpetrator shall be punished by a prison term not shorter than ten years or by a forty year prison term.

(4) The punishment under para. 3 above shall also apply to anyone who, in breach of rules of international law, in state of war or armed conflict issues an order that there must be no enemy survivors or who combats the enemy for that purpose.

## **Misappropriation of Property from War Casualties**

### **Article 435**

(1) Anyone who orders misappropriation of property from persons killed or injured on battlefield or who commits misappropriation himself shall be punished by a prison term from one to five years.

(2) Where the offence under para. 1 above was committed in a cruel manner or where the value of misappropriated property exceeds three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the value of property referred to in para. 1 above exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.

## **Wrongdoing against a Bearer of a Flag of Truce**

### **Article 436**

Anyone who, in breach of rules of international law, in state of war or armed conflict insults, ill-treats or holds a bearer of a flag of truce or his escort or who hinders their return or otherwise violates their inviolability or who orders the commission of such offences shall be punished by a prison term from six months to five years.

## **Cruel Treatment of the Injured, Sick and of Prisoners of War**

### **Article 437**

Anyone who, in breach of rules of international law, treats inhumanly the injured, 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 term from six months to five years.

## **Unjustified Delay of Repatriation of Prisoners of War**

### **Article 438**

Anyone who, in breach of rules of international law, after the war or armed conflict ended, unjustifiably delays the repatriation of prisoners of war or of civilians, or who orders such delay shall be punished by a prison term from six months to five years.

## **Destruction of Cultural Good**

### **Article 439**

(1) Anyone who, in breach of rules of international law, in state of war or armed conflict destroys or uses for military purposes cultural or historical monuments or other cultural good or religious structures or institutions or facilities intended for science, art, education or humanitarian goals or who misappropriates a movable cultural good or orders the commission of such offences shall be punished by a prison term from three to fifteen years.

(2) Where the offence under para. 1 above resulted in the destruction of a facility that as a cultural good enjoys special protection of international law, the perpetrator shall be punished by a prison term from five to fifteen years.

## **Omission to Prevent Criminal Offences against Humanity and Other Values Protected under International Law**

### **Article 440**

(1) A military commander or a person performing this function or a superior civilian who knowing that forces he is commanding or controlling are preparing or have commenced the commission of any of the criminal offences under Articles 426 to 430, Art.432, Art. 434 to 437 and Art.439 hereof omits 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 any of the offences shall be punished by a prison term from two to ten years.

(2) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a prison term up to three years.

### **Abuse of International Signs**

#### **Article 441**

(1) Anyone who abuses or carries without authorization the flag or sign of the United Nations Organization or the flag or sign of the Red Cross Organization or signs 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 term up to three years.

(2) Anyone who commits any of the offences under para. 1 above in the zone of war operations shall be punished by a prison term from six months to five years.

### **Aggressive War**

#### **Article 442**

(1) Anyone who calls for or incites to aggressive war shall be punished by a prison term from two to twelve years.

(2) Anyone who orders the waging of aggressive war shall be punished by a prison term not shorter than ten years or by a forty year prison term.

### **Racial and Other Discrimination**

#### **Article 443**

(1) Anyone who on grounds of a difference in race, colour of skin, national affiliation or ethnic origin, or some 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 term from six months to five years.

(2) The punishment under para. 1 above shall also apply to anyone who persecutes organizations or individuals for their efforts to ensure equality of people.

(3) Anyone who spreads ideas of superiority of one race over another, or promotes racial hatred, or incites to racial and other discrimination shall be punished by a prison term from three months to three years.

## **Trafficking in Persons**

### **Article 444**

(1) Anyone who by use of force or threat, deceiving or keeping in deception, abuse of power, trust, dependence, position of vulnerability of another person, dispossession of personal documents or giving or receiving payments or other undue advantage to achieve the consent of a person having control over another person commits any of the following: recruits, transports, transfers, surrenders, sells, buys, mediates in sale, conceals or keeps another person for the purpose of exploitation of his labour, forced labour, submission to servitude, commission of criminal activity, prostitution or other type of sexual exploitation, beggary, exploitation for pornographic purposes, unlawful extraction of organs for transplantation, or for exploitation in armed conflicts shall be punished by a prison term from one to ten years.

(2) The acts under para. 1 above shall constitute criminal offences when committed against minors even where the perpetrator did not use force, threat or any other of the methods listed above.

(3) Where the offence under para. 1 above was committed against a minor, the perpetrator shall be punished by a prison term not shorter than three years.

(4) Where the offence under paras 1 to 3 above resulted in a serious bodily injury, the perpetrator shall be punished by a prison term from one to twelve years.

(5) Where the offence under paras 1 and 3 above resulted in the death of one or more persons, the perpetrator shall be punished by a prison term not shorter than ten years.

(6) Anyone who regularly engages in the commission of the criminal offences under paras 1 to 3 above or where the offence was committed by several persons in an organised manner shall be punished by a prison term not shorter than ten years.

(7) Anyone who uses the services of a person knowing that the person is a victim of the offence under para. 1 above shall be punished by a prison term from six months to five years.

(8) Where the offence under para. 7 above was committed against a minor, the perpetrator shall be punished by a prison term from three to fifteen years.

## **Trafficking in Children for Adoption**

### **Article 445**

(1) Anyone who abducts for adoption a person who has not reached the age of fourteen in breach of valid regulations or anyone who adopts such a person or mediates

in such 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 term from one to five years.

(2) Anyone regularly engages in the commission of the offences referred to in para. 1 above or participates in their organized commission together with several other persons shall be punished by a prison term not shorter than three years.

## **Submission to Slavery and Transportation of Enslaved Persons**

### **Article 446**

(1) Anyone who, in breach of rules of international law, submits another person to slavery or other similar position or keeps another person in such a position, or who buys, sells, surrenders to another person or mediates in buying, selling or surrendering of such a person or who incites another person to sell his own freedom or freedom of persons he supports or cares for shall be punished by a prison term from one to ten years.

(2) Anyone who transports persons in the position of slavery or other similar position from one country to another shall be punished by a prison term from six months to five years.

(3) A perpetrator who commits the offences under paras 1 and 2 above against a minor shall be punished by a prison term from five to fifteen years.

## **Terrorism**

### **Article 447**

(1) Anyone who, with the intention to seriously intimidate the 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, foreign state or of international organization, commits any of the following offences:

- 1) attack on the life, body 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 epicontinental shelf, public good or private property that may endanger the lives of people or cause considerable damage to the economy,
- 4) hijack of aircraft, vessel, means of public transport or transport of goods that may endanger the lives of people,
- 5) development, possession, procurement, transport, provision 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) emission of dangerous substances or causing fires, explosions or floods or taking other generally dangerous actions that might harm 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 term not shorter than five years.

(2) Anyone who threatens to commit the criminal offence under para. 1 above shall be punished by a prison term from six months to five years.

(3) Where the offence under para. 1 above resulted in the death of one or more persons or a large-scale destruction, the perpetrator shall be punished by a prison term not shorter than ten years.

(4) Where during the commission of the offence under para. 1 above the perpetrator killed one or several persons with wrongful intent, he shall be punished by a prison term not shorter than twelve years or by a forty year prison term.

### **Public Call for the Commission of Terrorist Acts**

#### **Article 447a**

Anyone who publicly calls for or otherwise instigates the commission of the criminal offence under Art.447 hereof shall be punished by a prison term from one to ten years.

### **Recruitment and Training for Commission of Terrorist Acts**

#### **Article 447b**

(1) Anyone who for the purpose of committing the offences under Art.447 hereof recruits another person 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 term from one to ten years.

(2) The punishment under para. 1 above shall also apply to anyone who, with the intention to commit the criminal offence under Art.447 hereof, gives instructions on the manufacture and use of explosive devices, firearms or other weapons or harmful or dangerous substances or who trains another person for the commission of or participation in the commission of that criminal offence.

### **Use of Lethal Device**

#### **Article 447c**

(1) Anyone who, with the intention to kill another person, inflict a serious bodily injury, or destroy or significantly damage a state or public facility, public traffic 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 device (explosive, chemical devices, biological devices or poisons or radioactive devices) in a public location or in a facility or next to that facility shall be punished by a prison term from one to eight years.



(2) Where in the commission of any of the offences under para. 1 above the perpetrator inflicted with wrongful intent a serious bodily injury to another person or destroyed or significantly damaged a facility, he shall be punished by a prison term from five to fifteen years.

(3) Where in the commission of any of the offences under para. 1 above the perpetrator killed with wrongful intent one or more persons, he shall be punished by a prison term not shorter than ten years or by a forty year prison term.

### **Destruction or Damage of Nuclear Facility**

#### **Article 447d**

(1) Anyone who, 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 emission of radioactive material shall be punished by a prison term from two to ten years.

(2) Where in the commission of any of the offences under para. 1 above the perpetrator inflicted with wrongful intent a serious bodily injury to another person or destroyed or significantly damaged a nuclear facility, he shall be punished by a prison term from five to fifteen years.

(3) Where in the commission of any of the offences under para. 1 above the perpetrator killed with wrongful intent one or more persons, he shall be punished by a prison term not shorter than ten years or by a forty year prison term.

### **Endangering Persons under International Protection**

#### **Article 448**

(1) Anyone who commits abduction or other type of violence against a person under international legal protection shall be punished by a prison term from two to twelve years.

(2) Anyone who attacks the official premises, private apartment or vehicle of a person under international legal protection in a manner that endangers his safety and personal freedom shall be punished by a prison term from one to eight years.

(3) Where the offences under paras 1 and 2 above resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from five to fifteen years.

(4) Where in the course of commission of the offences under paras 1 and 2 above the perpetrator killed another person with wrongful intent, he shall be punished by a prison term not shorter than ten years or by a forty year prison term.

(5) Anyone who endangers the safety of the person referred to in para. 1 above by a serious threat to attack him, his official premises, private apartment or a vehicle shall be punished by a prison term from six months to five years.

## **Terrorism Financing**

### **Article 449**

(1) Anyone who procures in any manner or raises funds, securities, other resources or property with the intention to use them partly or wholly for financing of the criminal offences under Articles 447, 447a, 447b, 447c, 447d and 448 hereof, or for the financing of organizations which have set the commission of these offences as their aim or of members of such organizations shall be punished by a prison term from one to ten years.

(2) The resources referred to in para. 1 above shall be confiscated.

## **Terrorist Association**

### **Article 449a**

(1) Where two or more persons mutually associate for a longer period to commit the criminal offences under Articles 447, 448 and 449 hereof, they shall be punished by the punishment prescribed for the offence for the exercise of which the association has been organized.

(2) The perpetrator of the offence under para. 1 above prevents the commission of the criminal offences under para. 1 above by revealing the association or otherwise, or who contributes to its revelation shall be punished by a prison term up to three years, and his punishment may be remitted.

## **TITLE THIRTY-SIX**

### **CRIMINAL OFFENCES AGAINST THE ARMY OF MONTENEGRO**

## **Evasion of Military Service**

### **Article 450**

(1) Anyone who, without justified reason, in state of war or emergency omits to report for meeting a conscription obligation, or avoids to receive a call-up notice to meet such an obligation shall be punished by a fine or a prison term up to one year.

(2) Anyone who is hiding to avoid his military duty referred to in para. 1 above shall be punished by a prison term from three months to three years.

(3) Anyone who leaves the country or stays abroad to avoid his military duty referred to in para. 1 above shall be punished by a prison term from one to eight years.

(4) Anyone who calls for several persons or incites them to commit the offences under paras 1 to 3 above shall be punished for the offence under para. 1 by a prison term up to three years, and for the offence under paras 2 and 3 by a prison term from two to twelve years.

(5) The punishment may be remitted where the perpetrator of any of the offences under paras 1 to 3 above voluntarily reports himself to a competent state authority.

### **Evasion of Inventory and Inspection**

#### **Article 451**

(1) Anyone who, in breach of an obligation laid down by law and without justified reason, omits to observe an invitation of an authority competent for inventory-taking or inspection, or opposes to 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 term up to one year.

### **Default of Work Obligation**

#### **Article 452**

Anyone who, in breach of an obligation laid down by law and without justified reason, in state of war or emergency omits to perform a work obligation shall be punished by a prison term from six months to five years.

### **Evasion of Military Service by Self-disabling or Deception**

#### **Article 453**

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### **Unlawful Exemption from Military Service**

#### **Article 454**

**-deleted-**

### **Arbitrary Leave and Desertion from the Army of Montenegro**

#### **Article 455**

(1) A military person who hides 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 term up to one year.

(2) A military person who arbitrarily leaves his unit or service in the Army during the increased level of combat readiness of the unit shall be punished by a prison term from three months to three years.

(3) The perpetrator of any of the offences under paras 1 and 2 above who voluntarily reports himself to the competent state authority in view of performing his military service may receive a lighter punishment.

## **Omission and Refusal to Execute Order**

### **Article 456**

(1) A military person who omits to execute or refuses to execute an order of his superior in relation to the service, where such omission or refusal results in serious detrimental consequences to the service or serious threat to it shall be punished by a prison term from three months to three years.

(2) Where the offence under para. 1 above resulted in grave consequences for the military service or where the order was related to the receipt and use of weapons, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished for the offence under para. 1 by a fine or a prison term up to one year, and for the offence under para. 2 by a prison term from three months to three years.

## **Resistance to Superior**

### **Article 457**

(1) A military person who together with other military persons offers resistance to the order of a superior in relation to the service in the Army and refuses to execute it, or refuses to discharge his duty shall be punished by a prison term from three months to three years.

(2) Where the offence under para. 1 above was committed in an organized manner, the perpetrator shall be punished by a prison term from one to five years.

(3) Where the offence under paras 1 and 2 above was committed by use of weapons, the perpetrator shall be punished by a prison term from one to eight years.

(4) A military person who commits negligent homicide in the commission of any of the offences under paras 1 to 3 above shall be punished by a prison term from two to ten years.

(5) A person organizing and serving in the capacity of a mastermind for the offences under para. 2 above shall be punished by a prison term from two to ten years.

(6) A military commander who, within the limits of his powers, in the event of the offences under paras 1 to 4 above omits to take measures that are prescribed, ordered or obviously necessary for the restoration of order shall be punished by a prison term from one to five years.

## **Resistance to a Military Person Performing Special Military Services**

### **Article 458**

Anyone who resists to a military person who performs sentry, registration, patrol, duty, guard or other similar services or disobeys his call or omits to obey or refuses to execute his order, where such resistance or disobedience results in serious detrimental consequences for the service, or serious danger for the service, shall be punished by a prison term from three months to three years.

## **Coercion against a Military Person in Discharge of Official Duty**

### **Article 459**

Anyone who by the use of force or threats of immediately using force prevents a military person from discharging his official duty, or who compels him in the manner described above to act in breach of his official duty, thus causing grave consequences for the army service, shall be punished by a prison term from one to eight years.

## **Assault against Military Person while Serving in the Army**

### **Article 460**

(1) Anyone who assaults or threatens to assault a military person who serves the Army shall be punished by a prison term from three months to three years.

(2) Where in the commission of the offences under para. 1 above the perpetrator inflicted a light bodily injury to the military person or where the perpetrator threatened to use weapons, he shall be punished by a prison term from three months to five years.

(3) Where during commission of the offences under para. 1 above the perpetrator inflicted a serious bodily injury to the military person or caused grave consequences for the service by negligence, he shall be punished by a prison term from one to eight years.

(4) Where during commission of the offences under para. 1 above the perpetrator committed negligent homicide against a military person, he shall be punished by a prison term from two to ten years.

## **Remission of Punishment for Offences under Articles 456 to 460**

### **Article 461**

The punishment may be revoked where a perpetrator of any of the offences under Articles 456 and 457 para. 1, 458 and 459 paras 1 and 2 and 460, paras 1 and 2 hereof was provoked by unlawful or rude action of a military person.

## **Ill-treatment of Subordinate or Subaltern**

### **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 term from three months to three years.

(2) Where the offence under para. 1 above was committed against a number of persons, the perpetrator shall be punished by a prison term from one to five years.

### **Violation of Special Military Service**

#### **Article 463**

(1) A military person who acts in breach of regulations on sentry, registration, patrol, duty, guard or other similar service thereby endangering the lives of people or property exceeding forty thousand euros or causing other grave consequences shall be punished by a prison term from six months to five years.

(2) Where the offence under para. 1 above caused a serious bodily injury or property damage exceeding forty thousand euros, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under para. 1 above caused death of one or a more persons, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Where any of the offences under paras 1 to 3 above were committed by negligence, the perpetrator shall be punished for the offence under para. 1 by a fine or a prison term up to one year, for the offence under para. 2 by a prison term up to three years, and for the offence under para. 3 by a prison term from one to eight years.

### **Violation of State Border Security**

#### **Article 464**

(1) A public official who while performing his duty at the state border acts in breach of the regulations on state border guard thereby causing serious detrimental consequences or serious danger to the service shall be punished by a prison term from three months to five years.

(2) Where the offence under para. 1 above was committed during a state of war or emergency or under special circumstances or where the offence resulted in a serious bodily injury or property damage exceeding forty thousand euros or other grave consequences, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under para. 1 above resulted in death of one or more persons, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

(5) Where the offence under para. 4 above resulted in the consequence referred to in para. 2 above, the perpetrator shall be punished by a prison term from three months to three years, and where it resulted in the consequences referred to in para. 3 above, the perpetrator shall be punished by a prison term from one to eight years.

## **Submission of False Official Reports**

### **Article 465**

(1) A military person who officially reports to his superior, orally or in writing, false data important for the service or who omits an important fact, or forwards such a report knowing the data therein are false thereby causing grave detrimental consequences or serious danger for the service shall be punished by a prison term from three months to three years.

(2) Where the offence under para. 1 above 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 term from one to eight years.

(3) Where the offence under paras 1 and 2 above was committed by negligence, the perpetrator shall be punished for the offence under para. 1 by a fine or a prison term up to one year, and for the offence under para. 2 by a prison term from three months to three years.

## **Omission to Take Measures for Security of Military Unit**

### **Article 466**

(1) A military commander who within the scope of his authority omits to take the measures that are 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 resources serving for combat readiness, for regular provisioning of food or military equipment, or for timely and proper performance of safety work 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 euros shall be punished by a prison term from six months to five years.

(2) Where the offence under para. 1 above resulted in a serious bodily injury, large scale damage to property, or other grave consequences, the perpetrator shall be punished by a prison term from one to eight years.

(3) Where the offence under para. 1 above resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from two to twelve years.

(4) Where the offence under para. 1 above was committed by negligence, the perpetrator shall be punished by a fine or a prison term up to two years.

(5) Where the offence under para. 4 above resulted in the consequences referred to in para. 2 above, the perpetrator shall be punished by a prison term from three months to three years, and where it resulted in the consequence referred to in para. 3 above, the perpetrator shall be punished by a prison term from one to eight years.

## **Malpractice in Manufacture and Taking Possession of Weapons and Other Military Equipment**

### **Article 467**

(1) A military or another person entrusted with management of production or other technological process or their supervision in a business organisation or other legal entity catering to the needs of defence, who unconscientiously performs his service or duty entrusted to him thereby causing delays in the manufacture of weapons, ammunition, or other military equipment or non-compliance with quality requirements shall be punished by a prison term from three months to three years.

(2) The punishment under para. 1 above shall also apply to a military or other person who due to his malpractice in the discharge of his duty takes possession of weapons or other military equipment that is not in compliance with the requirements or the contract.

(3) Where the offences under paras 1 and 2 above resulted in grave consequences, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where the offences under paras 1 and 2 above were committed by negligence, the perpetrator shall be punished by a fine or a prison term up to one year.

(5) Where the offences under para. 4 above resulted in the consequence referred to in para. 3 above, the perpetrator shall be punished by a prison term from three months to three years.

## **Improper Care of Entrusted Weapons**

### **Article 468**

(1) Anyone who possesses, stores or handles the entrusted weapons, ammunition or explosives owned by the military unit or institution in breach of regulations thereby causing their large scale damage, destruction or disappearance shall be punished by a prison term from three months to three years.

(2) A person who manages the depot of weapons, ammunition, explosives and other combat devices who omits to take measures for their security and maintenance thereby causing extensive damage, destruction or disappearance of such combat devices shall be punished by a prison term from six months to five years.

(3) Where the offence under para. 2 above resulted in large scale property damage, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where the offences under paras 1 and 2 above were committed by negligence, the perpetrator shall be punished by a fine or a prison term up to two years.

(5) Where the offence under para. 4 above resulted in the consequence referred to in para. 3 above, the perpetrator shall be punished by a prison term from three months to five years.



## **Unlawful Handling of Weapons Entrusted**

### **Article 469**

Anyone who misappropriates, disposes of, pawns, diverts 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 the defence needs shall be punished by a prison term from three months to five years.

## **Theft of Weapon or Part of Combat Device**

### **Article 470**

(1) Anyone who steals weapons, ammunition, explosives, combat devices or part of combat device serving for defence needs shall be punished by a prison term from six months to five years.

(2) Where the value of the property referred to in para. 1 above exceeds three thousand euros 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 rude 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 other disaster, the perpetrator shall be punished by a prison term from two to ten years.

(3) Where the value of the property referred to in para. 1 above exceeds thirty thousand euros, the perpetrator shall be punished by a prison term from two to twelve years.

## **Disclosure of Military Secrets**

### **Article 471**

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## **Trespass on Military Facilities**

### **Article 472**

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## **Punishment for Criminal Offences Committed in State of War, Armed Conflict and State of Emergency**

### **Article 473**

(1) The criminal offences under Articles 450 para. 1, 455 paras 1 and 2, 456 paras 1 and 3, 457 paras 1 and 7, 458, 459, 460 paras 1 and 2, 462 para. 1, 463 paras 1 and 4, 465, 466 paras 1 and 4, 467 paras 1, 2 and 5, 468 paras 1, 2, 4 and 5, 469 and 470 para. 1 hereof, where they were committed during a state of war, armed conflict or state of emergency shall carry a prison term from two to ten years.

(2) The criminal offences under Articles 450 paras 2 to 4, 455 para. 2, 456 para. 2, 460 paras 3 and 4, 462 para. 2, 463 para. 2, 464 paras 2 and 5, 467 para. 3, 468 para. 3, 470 paras 2 and 3 hereof, where they were committed in a state of war, armed conflict or state of emergency shall carry a prison term from three to fifteen years.

(3) The criminal offences under Articles 463 para. 3 and 466 para. 3 hereof, where they were committed in a state of war, armed conflict or state of emergency shall carry a prison term not shorter than ten years.

### **Omission to Fulfill a Duty during Army Mobilization**

#### **Article 474**

(1) A military person or a public official who during Army mobilization, in state of war, armed conflict or state of emergency, in breach of his duty, omits to ensure the reception, deployment and accommodation of mobilized manpower, transport and other means, or omits to ensure the provisions for mobilized manpower and livestock, or omits to perform any other duty in relation to mobilization, which resulted or could have resulted in detrimental consequences shall be punished by a prison term from one to five years.

(2) Where the offences under para. 1 above resulted in grave consequences, the perpetrator shall be punished by a prison term not shorter than ten years.

(3) Where the offences under para. 1 above were committed by negligence, the perpetrator shall be punished by a prison term up to three years.

(4) Where the offences under para. 3 above resulted in grave consequences, the perpetrator shall be punished by a prison term from three months to five years.

### **Undermining Military and Defence Power**

#### **Article 475**

(1) Anyone who destroys, makes useless or who enables the transfer to enemy of defence installations, defence facilities, position, weapons and other military and defence facilities, vessel or aircraft or who hands a unit over to the enemy without combat or before all means for combat have been exhausted, or who hinders and otherwise endangers the military or defence measures shall be punished by a prison term from three to fifteen years.

(2) Anyone who commits any of the offences under para. 1 above with the intention of assisting the enemy shall be punished by a prison term from five to fifteen years.

(3) Anyone who prepares the commission of the offences under paras 1 and 2 above shall be punished by a prison term from one to six years.

(4) Where the offences under para. 1 above were committed by negligence, the perpetrator shall be punished by a prison term from one to eight years.

(5) Where the offences under paras 1 and 2 above resulted in the death of one or more persons, or where they endangered the lives of humans, were accompanied by serious acts of violence or extensive devastation, or endangered the security, economic or military power of the country, the perpetrator shall be punished by a prison term for not shorter than ten years.

### **Preventing Fight against Enemy**

#### **Article 476**

(1) Anyone who in a state of war or armed conflict prevents citizens of Montenegro or citizens of its allies from fighting against the enemy shall be punished by a prison term from five to fifteen years.

(2) Anyone who in a state of war or armed conflict discourages citizens of Montenegro or citizens of its allies from fighting against the enemy by propaganda activities or in some other manner shall be punished by a prison term from one to eight years.

### **Defection and Surrender to the Enemy**

#### **Article 477**

(1) A military person who in a state of war or armed conflict defects to the enemy force shall be punished by a prison term not shorter than ten years or a forty year prison term.

(2) A military person who in a state of war or armed conflict defects to the enemy before having previously exhausted all capacities of defence shall be punished by a prison term from two to ten years.

### **Service in Enemy Army**

#### **Article 478**

(1) A citizen of Montenegro who in a state of war or armed conflict serves in the enemy army or enemy's other 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 term from three to fifteen years.

(2) Anyone who recruits citizens of Montenegro for service in the enemy army or enemy's other armed formations or for participation in a war or armed conflict against Montenegro or its allies shall be punished by a prison term from five to fifteen years.

## **Aiding the Enemy**

### **Article 479**

(1) A citizen of Montenegro who in a state 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 term from two to ten years.

(2) The punishment under para. 1 above shall also apply to a citizen of Montenegro who maintained political and economic cooperation with the enemy during the war.

(3) Where the offence under paras 1 and 2 above resulted in the death of one or more persons, or endangered the lives of humans, or was accompanied by serious acts of violence, or extensive devastation, or has threatened the security of the economic or military power of the country, the perpetrator shall be punished by a prison term not shorter than ten years.

## **Nonperformance and Abandonment of Duty during Combat**

### **Article 480**

(1) A military person who during combat or immediately before it, omits to discharge his duty thereby causing detrimental consequences for the military unit or combat situation shall be punished by a prison term from two to ten years.

(2) The punishment under para. 1 above shall also apply to a military person who during combat or immediately before it abandons his duty of his own free will or takes fraudulent leave.

(3) Where the offences under paras 1 and 2 above resulted in grave consequences, the perpetrator shall be punished by a prison term not shorter than ten years.

## **Abandonment of Position in Breach of Order**

### **Article 481**

(1) A military commander who in breach of an order abandons his position with the unit entrusted to him before having exhausted all options for defence shall be punished by a prison term from two to twelve years.

(2) Where the offence under para. 1 above resulted in grave consequences, the perpetrator shall be punished by a prison term not shorter than ten years.

## **Early Abandonment of Damaged Ship or Aircraft**

### **Article 482**

(1) A commander of a war ship who in state 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 term from two to ten years.

(2) A member of a war ship crew who in state of war or armed conflict deserts the damaged ship before the commander issues order for abandonment, or a member of crew of a military aircraft who in state of war or armed conflict abandons the damaged military aircraft before having fulfilled his duty under regulations governing flight and usage of aircraft shall be punished by a prison term from one to eight years.

(3) Where the offences under paras 1 and 2 above resulted in grave consequences, the perpetrator shall be punished for the offence under para. 1 above by a prison term not shorter than ten years, and for the offence under para. 2 above by a prison term from two to ten years.

## **Weakening of Combat Morale**

### **Article 483**

(1) Anyone who immediately before or during combat by provoking dissatisfaction among military persons, spreading disquieting news, escape, throwing away arms or ammunition, causing or spreading fear or otherwise weakens the combat morale in a unit or causes harm to combat situation shall be punished by a prison term from two to twelve years.

(2) A military commander who omits to take 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 combat situation shall be punished by a prison term from one to eight years.

(3) Where the offences under paras 1 and 2 above resulted in grave consequences, the perpetrator shall be punished by a prison term not shorter than ten years.

## **Unauthorized Access to Military Facility**

### **Article 483a**

(1) Anyone who enters a military facility without authorization or makes sketches or drawings of military facilities or combat devices or takes photos of them or otherwise records them, or publishes recordings thereof knowing it is prohibited shall be punished by a prison term up to three years.

(2) Where the offence under para. 1 above was committed during a state of war, armed conflict or state of emergency, the perpetrator shall be punished by a prison term from one to eight years.

## **Omission to Report to Military Bodies**

#### **Article 484**

(1) A military person who in a state of war, armed conflict or state of emergency, omits 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 term up to three years.

(2) Where the offences under para. 1 above resulted in grave consequences, the perpetrator shall be punished by a prison term from two to ten years.

### **Criminal Offences Committed following Orders of Superiors**

#### **Article 485**

Exempted from punishment shall be a subordinate who committed a criminal offence related to official duty following the order of a superior unless the order was related to the commission of a criminal offence that carries punishment exceeding five years in prison, and the subordinate knew that the fulfilment of the order constituted 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 length it is not more severe than the measure previously imposed.

#### **Article 487**

All criminal provisions contained in other laws that are contrary to this Code shall be repealed as of the date this Code enters into force.

#### **Article 488**

This Code shall enter into force on the eighth day following its publication in the Official Gazette of the Republic of Montenegro, and its implementation will start three months after its entry into force.

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