

24 Annex - Justice, freedom and security

160. CRIMINAL CODE

CRIMINAL CODE

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GENERAL PART

TITLE ONE

GENERAL PROVISIONS

Basis and Scope of Criminal Justice Coercion

Article 1

Protection of a human beings and other fundamental social values constitutes the basis and limits for defining criminal offences, prescribing criminal sanctions and their enforcement to a degree necessary for suppression of these offences.

**Legality in Determination of Criminal Offences and
Prescription of Criminal Sanctions**

Article 2

A sentence or other criminal sanction may be imposed only for an act which was laid down by law as a criminal offence before it was committed and for which a sanction was laid down by law.

No Sentence without Guilt

Article 3

A sentence and warning measures may be imposed only to an offender who is guilty of a committed criminal offence.

Criminal Sanctions and Their General Purpose

Article 4

(1) Criminal sanctions are: sentences, warning measures, security measures and corrective measures.

(2) General purpose of prescription and imposition of criminal sanctions shall be the suppression of the acts which violate and jeopardize the values protected by criminal legislation.

**TITLE TWO
CRIMINAL OFFENCE**

1. General Provisions on Criminal Offences

Criminal Offence

Article 5

Criminal offence is an act laid down by law as a criminal offence, which is unlawful and which has been committed with guilty mind.

Manner of Commission of a Criminal Offence

Article 6

(1) Criminal offence may be committed by an act or an omission.

(2) Criminal offence is committed by omission if an offender has failed to do what s/he was obliged to do.

(3) Criminal offence may also be done by omission even if it is not laid down by law does as omission if an offender has satisfied the elements of criminal offence by failing to do what he was obliged to do.

Time of Commission of Criminal Offence

Article 7

(1) Criminal offence is committed at the time when an offender was acting or was obliged to act, irrespective of when the consequence of that act occurred.

(2) An accomplice is deemed that s/he committed a criminal offence at a time when s/he acted or was obliged to act.

Crime Scene

Article 8

(1) Criminal offence is committed at the place in which an offender thereof acted and was obliged to act or where whole or partial consequence of the act thereof occurred, while in case of an attempted offence, also at the place where the consequence of an attempted act in her/his wrongful intention should or could have occurred.

(2) An accomplice is deemed to have committed an offence at the place where s/he acted in the capacity of an accomplice.

An Offence of Minor Significance

Article 9

(1) An offence which represents an offence of minor significance although it has elements of a criminal offence is not a criminal offence.

(2) A criminal offence is an offence of minor significance if the nature and the seriousness of the offence, circumstances under which it was done, the motives out of which it was done, degree of offender's guilt, absence or insignificance of harmful effects and other circumstances indicate to the minor significance of the offence thereof.

(3) The provisions of paragraphs 1 and 2 of this Article may not be applied on criminal offences for which imprisonment sentence exceeding three years is provided for.

Legitimate Self-defence

Article 10

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

(2) Legitimate self-defence is such defence which is absolutely necessary for a doer in order to avert from his/her asset or someone else's asset a concurrent or imminent unlawful attack.

(3) An offender who has exceeded the limits of legitimate self-defence may be punished more leniently and if s/he has exceeded the limits due to strong excitement or fear caused by an assault, and s/he may also be remitted of penalty.

Extreme Necessity

Article 11

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

(2) Extreme necessity exists when an act is committed in order that the offender averts from his/her asset or someone else's asset concurrent or imminent danger s/he did not cause which could not have been averted in any other manner, provided that the harm caused thereby does not exceed the one which was threatening.

(3) If an offender created the danger him/herself out of negligence, or if s/he exceeded the limits of extreme necessity, s/he may be punished more leniently, and if s/he exceeded the limits under particularly mitigating circumstances s/he may be remitted of penalty.

(4) There is no extreme necessity if an offender was under an obligation to expose him/herself to the threatening danger.

Force and Threat

Article 12

(1) An act which has been done under the influence of absolute force is not a criminal offence.

(2) If an act has been done in order that a doer averts from his/her asset or from someone else's asset a danger that was caused by a force which is not absolute or under threat, the provisions of Article 11 of this Code shall apply to the doer accordingly, considering the force and threat as a danger which s/he did not cause.

(3) If a criminal offence has been committed under force or threat and the conditions referred to in paragraphs 1 and 2 of this Article are not met, an offender thereof may be punished

more leniently and if the offence was committed under particularly mitigating circumstances, s/he may be remitted of penalty.

(4) In cases referred to in paragraphs 1 and 2 of this Article if a person who has been under force or threat is not deemed an offender of that criminal offence, then the person who has inflicted the force and threat thereof shall be deemed an offender.

Guilt

Article 13

(1) An offender is guilty of a criminal offence if s/he is of sound mind and if s/he acted with guilty mind.

(2) An offender is guilty for a criminal offence committed out of negligence insofar as the offence thereof is laid down by law.

Mental Capacity

Article 14

(1) An offender who at the moment of committing an unlawful act laid down by law as a criminal offence could not understand the importance of his/her act or could not control his/her actions due to mental illness, temporary mental alienation, arrested mental development or other severe mental alienation (mental incapacity) shall be deemed a mentally incapacitated person.

(2) An offender whose ability to understand the importance of his/her act or ability to control his/her actions was substantially diminished due to any of the conditions referred to in paragraph 1 of this Article (significantly reduced mental capacity) may be punished more leniently.

(3) The guilt of an offender who by consumption of alcohol, drugs or in any other manner brought him/herself into a state in which s/he could not understand the significance of his/her acts or could not control his/her actions shall be determined according to the time immediately before s/he brought him/herself in that condition.

(4) An offender who under circumstances referred to in paragraph 3 of this Article has committed a criminal offence in the state of significantly reduced mental capacity may not be imposed a more lenient sentence.

Wrongful Intention

Article 15

A criminal offence has been committed with guilty mind when the offender was aware of his/her act and wanted it to be committed or when the offender was aware that s/he could commit an act thereof and s/he consented to it.

Negligence

Article 16

A criminal offence has been committed out of negligence where an offender was aware that by his/her action s/he could commit an offence but s/he has recklessly considered that it would not occur or that s/he would be able to prevent it, or when s/he was not aware of the possibility that by

his/her act s/he could commit an offence although, under the circumstances in which the act thereof was committed, and in his/her personal capacities s/he was obliged and could have been aware of that possibility.

Liability for a Graver Consequence

Article 17

When a graver consequence has resulted from a criminal offence due to which a more severe sentence is provided for by law, that sentence may be imposed if the consequence is attributable to the offender's negligence, as well as to his/her guilty mind if by that an offender has not satisfied the elements of some other criminal offence.

Error of Fact

Article 18

(1) A person is not criminally responsible if at the time of committing a criminal offence s/he was not aware of statutory element in it, or if s/he mistakenly believed that circumstances existed which, had they really existed, would have rendered such an act permissible.

(2) If the offender's mistake was due to his/her negligence, s/he shall be criminally liable for a criminal offence committed out of negligence, insofar as the offence thereof is laid down by law.

Error of Law

Article 19

(1) Any offender who could not know and was not obliged to know that his/her act is prohibited shall not be held criminally responsible.

2. Attempted Criminal Offence and Voluntary Abandonment

Attempt

Article 20

(1) Anyone who with guilty mind commences the commission of a criminal offence, but does not finish it, shall be punished for attempted criminal offence punishable under law by an imprisonment sentence of five years or more, whereas other attempted criminal offences shall be punishable solely when explicitly provided for by law that an attempt shall be punishable.

(2) Use of certain tool or application of a certain manner of commission shall also be deemed a commenced criminal offence if the law lays them down as elements of criminal offence.

(3) An offender shall be sanctioned for an attempted offence by sentence laid down for criminal offence thereof, but s/he may be punished more leniently.

Inappropriate Attempt

Article 21

An offender who attempts committing a criminal offence with inappropriate tool or against an inappropriate object may be remitted of penalty.

Voluntary Abandonment

Article 22

(1) An offender who has attempted to commit a criminal offence, but has voluntarily abandoned its commission may be remitted of penalty.

(2) In case of voluntary abandonment, the offender shall be punished for those actions which constitute another independent criminal offence which is not comprised in the criminal offence the offender has abandoned.

3. Complicity in Criminal Offence

Co-perpetration

Article 23

If several persons jointly commit a criminal offence by taking part in an act of commission with guilty mind or out of negligence, or if they significantly contribute to the commission of a criminal offence by realizing a joint decision by means of another action with guilty mind, each of them shall be punished as laid down for the offence in question.

Incitement

Article 24

(1) Anyone who with guilty mind incites another to commit a criminal offence shall be punished as if s/he has committed it by himself/herself.

(2) Anyone who with guilty mind incites another to commit a criminal offence which is punishable by law with imprisonment sentence of five years or more shall be punished for an attempted criminal offence even if the offence has not been attempted at all.

Aiding

Article 25

(1) Anyone who with guilty mind aids another person in the commission of a criminal offence shall be punished as if s/he has committed it, but may be punished more leniently as well.

(2) The following, in particular, shall be deemed as aiding in the commission of a criminal offence: giving instructions or counselling about how to commit a criminal offence, supply of means for committing a criminal offence to the offender, creation of conditions or removal of obstacles for committing a criminal offence as well as the promise given prior to the commission to conceal the criminal offence, offender, means for committing the criminal offence, the traces of criminal offence and the objects gained through the commission of the criminal offence.

Limits of Liability and Punishability of Accomplices

Article 26

(1) A co-offender shall be criminally liable within the limits of his/her wrongful intention or negligence, and inciter and aider within the limits of their wrongful intention.

(2) A co-offender, inciter or an aider who has voluntarily prevented the commission of a criminal offence may be remitted of penalty.

(3) Personal relations, capacities and circumstances due to which the law excludes guilt or allows remission of penalty and on which the existence of minor or serious form of an offence depend or which is of influence in fixing a sentence may be taken into consideration only for the offender, co-offender, inciter or aider with whom such relations, characteristics and circumstances exist.

Sentence of Inciters and Aiders for an

Attempt and Minor Criminal Offence

Article 27

(1) If a criminal offence remained an attempt the inciter and aider shall be punished for an attempt.

(2) If an offender has committed a minor criminal offence than the one for which s/he has been incited or aided, and which would have been comprised in it, the inciter and aider thereof shall be punished for the criminal offence which has been committed.

(3) The provision of paragraph 2 of this Article shall not be applied if the inciter thereof would have been punished more severely by applying Article 24, paragraph 2 of this Code.

4. Special Provisions in relation to Criminal Liability for Criminal Offences Committed through the Media

Liability of an Editor-in-chief

Article 28

(1) An editor-in-chief or a person who replaced him/her at the time when the information was published shall be liable for criminal offences committed through the media, if:

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

2) the information was published without the author's consent;

3) at the time when the information was published factual or legal impediments for prosecution of the author existed and which still last.

(2) An editor-in-chief or a person who is replacing him/her shall not be held criminally liable if out of justifiable reasons s/he did not know about some of the circumstances referred to in paragraph 1, items 1 through 3 of this Article.

Liability of a Publisher, Type-setter and Manufacturer

Article 29

(1) If the conditions referred to in Article 28 of this Code exist, the following persons shall be held criminally liable:

1) a publisher – for a criminal offence committed through regular press publications and, if a publisher does not exist or there are factual or legal impediments for his/her prosecution, the type-setter who had the knowledge of it,

2) a manufacturer – for the criminal offence committed through compact disc, phonograph record, magnetic tape and other audio means, film for public or private display, slides, videos or other similar means of communication intended for wider audience.

(2) If a publisher, type-setter or manufacturer is a legal person or a state body, the person in charge of publishing, type-setting or manufacturing shall be held criminally liable.

Application of Provisions Referred to in Art. 28 and 29

Article 30

The provisions on criminal liability of the persons referred to in Articles 28 and 29 of this Code shall apply only provided that these persons may not be deemed offenders under the general provisions of this Code.

5. Liability of Legal Persons for a Criminal Offence

Article 31

(1) Liability of legal persons for criminal offences, as well as sanctions to be applied thereto shall be envisaged by law.

(2) Criminal offences for which a legal person may be held liable shall be provided for by law.

TITLE THREE

SENTENCES

1. Purpose of Sentence, Types of Sentence and Conditions for their Imposition

Purpose of Sentence

Article 32

The purpose of sentence within the limits of the general purpose of criminal sanctions (Article 4, paragraph 2) is:

1) preventing offenders from committing criminal offences and influencing them so that they do not commit criminal offences thereafter;

2) influencing others not to commit criminal offences;

3) expression of social condemnation for a criminal offence and of an obligation to respect laws;

- 4) strengthening morality and influencing the development of social responsibility.

Types of Sentences

Article 33

The following sentences may be imposed on the offenders:

- 1) a forty-year imprisonment;
- 2) an imprisonment sentence;
- 3) a fine;
- 4) a community service.

Principal and Accessory Punishments

Article 34

(1) A forty-year imprisonment, imprisonment sentence and community service may be imposed only as principal sentences.

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

(3) If several sentences are laid down for one criminal offence, only one of these may be imposed as the principal sentence.

Forty-year Imprisonment Sentence

Article 35

(1) A forty-year imprisonment sentence may be imposed for the most aggravated forms of serious criminal offences, provided that it may not be imposed as the only sentence for a certain criminal offence.

(2) A forty-year imprisonment sentence may not be imposed:

- 1) to a person who had not reached twenty one year of age at the time of commission of a criminal offence;
- 2) to a person who had significantly reduced mental capacity (Article 14, paragraph 2) at the time of commission of a criminal offence;
- 3) for an attempted criminal offence.

Imprisonment Sentence

Article 36

(1) An imprisonment sentence may not be shorter than thirty days nor longer than twenty years.

(2) The imprisonment sentence referred to in paragraph 1 of this Article shall always be imposed in full years and months, and those ones shorter than six months, in months and days.

Parole

Article 37

(1) A convicted person who has served two thirds and exceptionally half of the imprisonment sentence or of the forty-year imprisonment sentence may be released on parole if in the course of serving the sentence thereof s/he has improved so that it is reasonable to expect that s/he will behave well while at liberty and, particularly that s/he will refrain from committing criminal offences until the end of the time the imprisonment sentence had been imposed. While assessing on to release the convicted person on parole his/her conduct during the period of serving the sentence, performance of work tasks appropriated to his/her working abilities, as well as other circumstances indicating that the purpose of sentence has been achieved shall be taken into consideration.

(2) In the case referred to in paragraph 1 of this Article, if the parole is not revoked, the convicted person shall be deemed to have served the sentence.

Revocation of Parole

Article 38

(1) The court shall revoke parole if a convicted person commits one or more criminal offences while on parole, for which imprisonment sentence exceeding one year is imposed.

(2) The court may revoke parole if a person on parole commits one or more criminal offences for which imprisonment sentence of less than one year is imposed. While assessing whether to revoke parole, the court shall particularly consider whether criminal offences are related, motives and other circumstances which thereby indicate justification for revocation of parole.

(3) The provisions of paragraphs 1 and 2 of this Article shall apply even if a person on parole is tried for a criminal offence that s/he committed before release on parole.

(4) When the court revokes parole it shall impose sentence by applying provisions of Articles 48 and 50, paragraph 2 of this Code and it shall consider previously imposed sentence as the one already established. A part of the sentence the convicted person has already served according to previous conviction shall be included in the new sentence, while the time spent on parole shall not be included.

(5) If a person on parole is sentenced to imprisonment sentence of less than a year and the court does not revoke the parole, the parole shall be extended for the period of the imprisonment sentence which the convicted person has served.

(6) In cases referred to in paragraphs 1 through 3 of this Article, a parole may be revoked at the latest within the time limit of two years of the date the parole expired.

Fine

Article 39

(1) A fine may not amount to less than two hundred euro. A fine may not amount to more than twenty thousand euro, and for criminal offences committed out of greed it may not exceed one hundred thousand euro.

(2) A fine imposed as the principal sentence shall be imposed in the following amounts:

1) up to two thousand euro for criminal offences punishable by an imprisonment sentence not exceeding three months;

2) from four hundred euro to four thousand euro for criminal offences punishable by an imprisonment sentence not exceeding six months;

3) from six hundred euro to eight thousand euro for criminal offences punishable by an imprisonment sentence not exceeding one year;

4) from eight hundred euro to sixteen thousand euro for criminal offences punishable by an imprisonment sentence not exceeding two years;

5) at least one thousand two hundred euro for criminal offences punishable by an imprisonment sentence not exceeding three years;

6) at least one thousand two hundred euro for criminal offences for which a fine is envisaged as the sole sentence.

(3) For criminal offences committed out of greed the fine as an accessory punishment may be imposed even if it is not laid down by law, or when the law lays down that the offender shall be punished by an imprisonment sentence or fine and the court imposes imprisonment sentence as the principal sentence.

(4) If the court fixes a fine as the principal sentence, and it also determines fine as an accessory punishment, it shall impose only one fine pursuant to the rules referred to Article 48 of this Code.

(5) The judgment shall determine payment time limit for a fine which may not be shorter than fifteen days or longer than three months. In justified cases, the court may allow the convicted person to pay the fine in instalments, provided that the payment deadline may not exceed one year.

(6) If a convicted person fails to pay a fine in the deadline set thereof, the court shall replace the fine with imprisonment sentence by converting each initiated twenty-five euro of the fine into one day of imprisonment provided that the imprisonment sentence may not last longer than six months, and if the fine imposed exceeds the amount of nine thousand euro, the imprisonment sentence may not be longer than one year. (7) Instead of an imprisonment sentence, an unpaid fine may be replaced by a sentence of community service, so that eight hours of community service shall be imposed for each initiated twenty-five euros of fine, provided that the community service may not be longer than two hundred and forty hours.

(8) If a convicted person pays only one part of the fine, the court shall replace the remaining part by proportionally converting it into imprisonment sentence, and if a convicted person pays the remaining part of the fine, the enforcement of the imprisonment sentence shall be discontinued.

(9) After the death of a convicted person the fine shall not be effectuated.

Fine in Daily Amounts

Article 40

(1) In the cases when revenues and expenditures of an offender may be determined, the court may impose a fine in daily amounts.

(2) The daily amount of a fine shall be determined on the basis of revenues and expenditures of an offender, provided that a portion of the fine that corresponds one day may not be less than ten euro or exceed the amount of one thousand euro.

(3) The number of daily amounts may not be less than ten or larger than three hundred and sixty days. The number of daily amounts for a committed criminal offence shall be fixed on the basis of general rules applied to the fixing of sentences (Article 42).

(4) The final amount of a fine shall be determined by the court by multiplying the number of daily amounts fixed with the ascertained value of one daily amount.

(5) It is for the purpose of ascertaining the value of daily amounts that the court may request data from banks and other financial institutions, state bodies and legal entities which shall deliver the requested data and which may not invoke the protection of business or other secrets.(6) If credible data on revenues and expenditures of an offender can not be obtained or if s/he does not get any revenues but is the owner of property or holder of property rights, the court shall, on the basis of available data and at its own discretion, determine the daily amount of a fine.

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

Community Service

Article 41

(1) Community service may be imposed for criminal offences punishable by a fine or imprisonment sentence not exceeding three years.

(2) Community service may not last shorter than 40 hours nor longer than two hundred and forty hours and shall be imposed for the period of time that may not be shorter than thirty days nor longer than six months.

(3) This sentence shall be imposed with the consent of an offender and may not be longer than forty hours during one month.

(4) Community service is to be deemed any socially useful work which does not offend human dignity and is not done for the purpose of gaining profit.

(5) When imposing this sentence, the court shall pay consideration to the type of criminal offence committed and to the character of the offender.

(6) If an offender does not perform the community service, the present sentence shall be replaced by an imprisonment sentence, thus that each initiated forty hours of community service shall be taken as one-month imprisonment sentence.

2. Fixing a Sentence

General Rules for Fixing a Sentence

Article 42

(1) The court shall fix a sentence for an offender within the limits envisaged by law for the criminal offence in question, having in mind the purpose of sentence and taking into account all circumstances that have bearing on magnitude of the sentence (mitigating and aggravating circumstances), and particularly the following: the degree of culpability, the motives from which the offence was committed, the intensity of danger or injury to the protected asset, the circumstances in which the offence was committed, the previous history of the offender, his/her personal situation, his/her behaviour after the commission of the criminal offence, particularly his attitude towards the victim of the criminal offence and other circumstances related to the personality of the offender.

(2) In fixing a fine the court shall give particular consideration to the financial standing of the offender, as well.

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

Recidivism

Article 43

When fixing a sentence to an offender for a criminal offence which s/he has committed after sentence served, sentence forgiven or barred by the statute of limitations or remission of penalty after the deadline for revocation of parole or after judicial admonition has been imposed, the court can take this circumstance as aggravating one and it will particularly assess the seriousness of a previously committed criminal offence, whether the former offence is of the same kind as the latest one, whether both offences were committed out of the same motives, circumstances in which the offences were committed and how much time has passed from the earlier conviction or sentence imposed, forgiven or barred by the statute of limitations, from remission of penalty, from expiry of the deadline for revocation of earlier suspended sentence or from imposed judicial admonition.

Multi-recidivism

Article 44

(1) The court may impose a more severe sentence than the provided for one for a criminal offence committed with guilty mind for which imprisonment sentence is provided for, under the following conditions:

1) if an offender has already been sentenced two or more times for criminal offences committed with guilty mind to imprisonment sentence of at least one year and shows propensity toward committing criminal offences;

2) if a period of five years has not expired between the day when the offender was released after serving the previous sentence and the day when s/he committed the new criminal offence.

(2) The more severe sentence shall not exceed double the amount of the provided for sentence nor twenty years of imprisonment sentence.

(3) When assessing whether to impose a more severe sentence than the provided for one, the court shall give particular consideration to the number of earlier sentences, relatedness of committed criminal offences, motives out of which they were committed, circumstances under which the offences were committed and the need to impose such sentence in view of attaining the purpose of sentence.

Mitigation of Sentence

Article 45

The court may impose to the offender the sentence below the limit laid down by law or more lenient type of sentence when:

1) the law envisages that an offender may be punished more leniently;

2) the law envisages that an offender may be remitted of penalty, and the court does not do so;

3) it is established that there are particularly mitigating circumstances and assessed that the purpose of sentence is achievable with mitigated sentence, as well.

Limits of Mitigation of Sentence

Article 46

(1) Where the conditions for mitigation of sentence referred to in Article 45 of this Code are met, the court shall impose a more lenient sentence within the following limits:

1) if the lowest provided for sentence for the criminal offence is an imprisonment sentence of minimum five years, the sentence may be mitigated for up to two-year imprisonment;

2) if the lowest provided for sentence for the criminal offence is an imprisonment sentence of minimum three years, the sentence may be mitigated for up to one-year imprisonment;

3) if the lowest provided for sentence for the criminal offence is an imprisonment sentence of two years, the sentence may be mitigated for up to six-month imprisonment;

4) if the lowest provided for sentence for the criminal offence is an imprisonment sentence of one year, the sentence may be mitigated for up to three-month imprisonment;

5) if the lowest provided for sentence for the criminal offence is an imprisonment sentence of less than one year, the sentence may be mitigated for up to thirty-day imprisonment;

6) if the provided for imprisonment sentence for the criminal offence does not specify the minimum sentence, the imprisonment sentence may be replaced by a fine;

7) if the provided for sentence for the criminal offence is the fine with provided for minimum amount, the fine may be mitigated for up to the amount of six hundred euro.

(2) When the court is authorized to remit an offender of penalty, it may impose a more lenient sentence without limitations laid down for mitigation of sentence.

Remission of Penalty

Article 47

(1) The court may remit an offender of penalty only when explicitly envisaged so by law.

(2) The court may also remit an offender of penalty who has committed an offence out of negligence if the consequences of that offence affect the offender so strongly that the imposition of sentence in that case would obviously not serve the purpose of sentence.

(3) The court may also remit an offender of penalty who committed a criminal offence punishable by the maximum imprisonment of five years, if s/he removes the consequences of the offence or compensates the damage caused by the criminal offence thereof after s/he committed criminal offence and before s/he learned that s/he was detected.

Concurrence of Criminal Offences

Article 48

(1) If an offender has committed several criminal offences by one action or several actions for which s/he is tried at the same time, the court shall first fix the sentences for each of these offences respectively and then impose a cumulative sentence for all those offences.

(2) The court shall impose a cumulative sentence in line with the following rules:

1) if a forty-year imprisonment sentence has been determined by the court for one of the concurrent criminal offences, it shall impose that sentence only;

2) if the court has determined imprisonment sentences for concurrent criminal offences, it shall increase the most severe sentence determined provided that the cumulative sentence does not reach the sum of imposed sentences nor exceed twenty years of imprisonment;

3) if imprisonment sentences of maximum three years are laid down for all concurrent criminal offences, the cumulative sentence shall not exceed ten years of imprisonment;

4) if only fines are determined for a concurrent criminal offence, the court shall impose one fine in the amount of the sum of determined fines, but it shall not exceed the amount of twenty thousand euro or one hundred thousand euro when one or more criminal offences have been committed out of greed, and if the court had determined only fines in daily amounts, it may not exceed the amount of three hundred sixty thousand euro;

5) if the court has determined only community sentences for concurrent criminal offences, it shall impose one community service in the amount of the sum of hours of work determined, provided that it shall not exceed two hundred forty hours, and the period in which work must be done must shall not be longer than six months;

6) if for some concurrent criminal offences imprisonment sentences are determined and for other offences fines, the court shall impose one imprisonment sentence and one fine pursuant to the provisions of items 2 through 4 of this paragraph.

(3) The court shall impose a fine as an accessory punishment if it has been determined for at least one of the concurrent criminal offences, and if the court has determined more than one fine it shall impose one fine pursuant to the provision of paragraph 2, item 4 of this Article.

(4) If the court determined imprisonment sentences and juvenile custody for concurrent criminal offences, it shall impose an imprisonment sentence as the cumulative sentence by applying the rules envisaged in paragraph 2, item 2 of this Article.

Continuing Criminal Offence

Article 49

(1) Continuing criminal offence comprises several same or congenial criminal offences committed in temporal continuity by the same offender and they represent a whole *per se* due to the existence of at least two of the following circumstances: the same injured party, the same object of an offence, use of the same situation or the same permanent relationship, the same places or spaces on which the offence was committed or the single wrongful intention of the offender.

(2) The criminal offences against a person can represent a continuing criminal offence only provided that they were committed against the same person.

(3) Those offences that by their nature do not allow to be joined into one offence may not represent a continuing criminal offence.

(4) If a continuing criminal offence comprises privileged and more serious forms of the same offence, it shall be deemed that the most serious form out of the committed offences was committed by the continuing criminal offence.

Fixing the Sentence to a Convicted Person

Article 50

(1) If a convicted person is tried for a criminal offence committed before s/he starts serving imprisonment sentence under an earlier conviction, or for a criminal offence committed in the course of serving imprisonment sentence or juvenile custody, the court shall impose a cumulative sentence for all criminal offences by applying the provisions of Article 48 of this Code, taking into account the sentence imposed earlier as an already determined one. The sentence or a part of the sentence the convicted person has already served shall be credited against the imposed imprisonment sentence.

(2) For criminal offence committed in the course of serving the imprisonment sentence or juvenile custody, the court shall impose a sentence to the offender regardless of previously imposed sentence if by application of the provisions of Article 48 of this Code and taking into account the seriousness of the criminal offence thereof and the unserved part of the earlier sentence, the purpose of sentence may not be achieved.

(3) A convict who in the course of serving the imprisonment sentence or juvenile custody commits a criminal offence for which the law provides for a fine or imprisonment sentence of maximum one year shall be disciplined.

Credit of Detention and Earlier Sentence

Article 51

(1) The time spent in custody, as well as any other deprivation of liberty in relation to a criminal offence shall be credited against the imposed imprisonment sentence, juvenile custody, community service or fine.

(2) If a criminal proceedings has been conducted for several concurrent criminal offences and detention has not been ordered for each of them, the time spent in custody shall be credited against the imposed imprisonment sentence, juvenile custody, community service or fine for a criminal offence the accused has been convicted for.

(3) Imprisonment sentence or a fine which the convicted person has served or paid for a misdemeanour or economic offence, as well as sentence or disciplinary measure of deprivation of liberty which the s/he has served for violation of military discipline shall be credited against the sentence imposed for a criminal offence whose elements encompass also the elements of a misdemeanour, economic offence or violation of military discipline.

(4) For each crediting, one day spent in custody, one day of deprivation of liberty, one day of juvenile custody, one day in prison, eight hours of community service and the amount of twenty-five euro of a fine shall be deemed equal.

TITLE FOUR

WARNING MEASURES

1. Suspended Sentence and Judicial Admonition

Purpose of a Suspended Sentence and Judicial Admonition

Article 52

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

(2) Within the limits of the general purpose of criminal sanctions (Article 4, paragraph 2), the purpose of a suspended sentence and judicial admonition is that a sentence for minor criminal offences is not imposed on the offender who is guilty once it is not necessary in view of criminal justice protection and when it is expected that an admonition with the threat of sentence (suspended sentence) or an admonition alone (judicial admonition) will influence the offender enough to deter him/her from committing criminal offences in the future.

Suspended Sentence

Article 53

(1) When imposing a suspended sentence, the court shall fix a sentence to an offender and at the same time it shall order that it is not to be enforced provided the convicted person does not commit another criminal offence for a period of time determined by the court, which may not be shorter than one year nor longer than five years (probation term).

(2) By a suspended sentence, the court may order that the sentence shall be enforced even if a convicted person fails to restore the material benefit acquired through the commission of the criminal offence, compensate for the damage s/he caused by commission of the criminal offence or fails to meet other obligations provided for in criminal law provisions. The timeframe for meeting these obligations shall be defined by the court within the limits of the specified probation term.

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

Conditions for Imposing a Suspended Sentence

Article 54

(1) A suspended sentence may be imposed when the maximum sentence of two years imprisonment has been determined to the offender.

(2) A suspended sentence may not be imposed for criminal offences punishable by an imprisonment sentence of ten years or a more severe sentence.

(3) A suspended sentence may not be imposed unless more than five years have elapsed from the day the sentence for a criminal offence committed with wrongful intention which was imposed on the offender became legally-binding.

(4) When determining whether to impose a suspended sentence the court shall, taking into account the purpose of the suspended sentence, pay a particular attention to the personality of the offender, his/her previous history, his/her conduct after the commission of the criminal offence, degree of guilt and other circumstances under which the offence has been committed.

(5) If both the imprisonment sentence and the fine were determined to the offender, a suspended sentence may be imposed only for the imprisonment sentence.

Revocation of a Suspended Sentence due to a New Criminal Offence

Article 55

(1) The court shall revoke a suspended sentence if a convicted person during the probation term commits one or more criminal offences for which the imprisonment sentence of two years or more is imposed.

(2) If a convicted person during the probation term commits one or more criminal offences for which the imprisonment sentence of less than two years or a fine has been imposed, the court shall decide whether to revoke the suspended sentence after it assesses all circumstances referring to the committed offences and offender him/herself, and particularly relatedness of committed criminal offences, their importance and motives from which they were committed. The court shall thereat be limited by the ban on imposing a suspended sentence if the offender should be sentenced to more than two years in prison for criminal offences determined in the suspended sentence and for new criminal offences (Article 54, paragraph 1).

(3) If the court revokes a suspended sentence, it shall impose a cumulative imprisonment sentence by applying the provisions of Article 48 of this Code for both previously committed and for new criminal offence by taking the sentence from revoked suspended sentence as already determined.

(4) If the court does not revoke a suspended sentence, it can impose a suspended sentence or a sentence for the new criminal offence. A convicted person who gets imprisonment sentence for the new criminal offence shall not have the period served in prison credited against the probation term determined by the suspended sentence for a previous offence.

(5) If the court finds that a suspended sentence should be imposed for the new criminal offence as well, by applying the provisions of Article 48 of this Code, it shall determine a cumulative sentence for both an earlier committed offence and for a new criminal offence and shall specify a new probation term which may not be shorter than one nor longer than five years counting from the day when the new judgment becomes legally-binding. If the convicted person in the course of the new probation term commits a criminal offence, the court shall revoke the suspended sentence and impose an imprisonment sentence by applying the provision of paragraph 3 of this Article.

Revocation of a Suspended Sentence due to a Previously Committed 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, provision of Article 55, paragraph 3 of this Code shall apply.

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

Revocation of a Suspended Sentence due to the Failure to Meet Particular Obligations

Article 57

If a suspended sentence prescribes a convicted person to meet some obligations referred to in Article 53, paragraph 2 of this Code, and s/he fails to meet that obligation within the time limit provided for in the judgment, the court may, within the limits of probation term, extend the deadline for meeting the obligation or it may revoke the suspended sentence thereof and impose the sentence provided for in the suspended sentence. If the court establishes that the convicted person may not meet the obligation provided for out of justified reasons, the court shall relieve him/her of meeting that obligation or replace it by other appropriate obligation envisaged by law.

Time-limits for Revocation of a 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 at the latest within the time limit of one year from the day when the probation term has expired.

(2) If a convicted person fails to meet an obligation referred to in Article 53, paragraph 2 of this Code within the time limit, the court may order that the sentence determined by the suspended sentence be enforced, at the latest within the term of one year from the expiration of probation term.

Suspended Sentence with Protective Supervision

Article 59

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

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

Conditions for Ordering Protective Supervision

Article 60

(1) When the court imposes a suspended sentence it may order that an offender be placed under protective supervision if on the basis of his/her personality, previous history, conduct after commission of the criminal offence, particularly his/her attitude to victim of the criminal offence and circumstances of commission of the criminal offence, it could be 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 determines the measures of protective supervision, their duration and manner for their implementation.

Contents of 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 offender for a particular profession;
- 3) accepting a job appropriate to the abilities and propensities of the offender;
- 4) fulfilment of the obligations to support family, care and bring up children and performing other family obligations;
- 5) refraining from visiting certain places, bars or events if that may be a chance or incentive for a repeated commission of criminal offences;
- 6) timely reporting the change of residence, address or job;
- 7) refraining from drug and alcohol consumption;
- 8) treatment in an appropriate medical institution;
- 9) visiting particular professional and other counselling offices or institutions and following their instructions;
- 10) eliminating or mitigating the damage caused by the criminal offence in question, particularly reconciliation with the victim of the committed criminal offence.

Selection of Measures of Protective Supervision

Article 62

When selecting the obligations referred to in Article 61 of this Code and determining their duration, the court shall particularly take into account the age of an offender, his/her health condition, propensities and habits, motives from which s/he committed a criminal offence, conduct after s/he committed criminal offence, previous history, personal and family situation, conditions for meeting the ordered obligations as well as other circumstances pertinent to the personality of the offender and that 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 determined within the limits of the probation term specified in the suspended sentence.
- (2) Protective supervision shall be terminated by revocation of a suspended sentence.
- (3) During the period of protective supervision the court may, in consideration of the results achieved, order certain obligations to be cancelled or replaced with other obligations.

(4) If the court finds in the course of protective supervision that the purpose of this measure has been achieved, the protective supervision may be terminated before expiration of the specified time period.

Consequences of Failure to Meet the Obligation of Protective Supervision

Article 64

If a convicted person to whom protective supervision has been imposed fails to meet the obligations that the court has ordered, the court may admonish him/her or it can 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 for which the imprisonment sentence not exceeding one year or a fine are provided for and which have been 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 in cases punishable by an imprisonment sentence not exceeding three years is provided for.

(3) Judicial admonition may be imposed by the court for several criminal offences committed in concurrence, provided that the conditions referred to in paragraphs 1 and 2 of this Article have been established for each of these criminal offences.

(4) When deciding whether to impose a judicial admonition, the court shall, taking into account the purpose of the judicial admonition, particularly consider the personality of the offender, her/his previous history, her/his conduct after the commission of the criminal offence, specifically her/his relationship towards the victim of the criminal offence, the degree of guilt and other circumstances under which the offence thereof has been committed.

(5) A judicial admonition may not be imposed to military personnel for criminal offences against the Army of Serbia and Montenegro.

TITLE FIVE

SECURITY MEASURES

Purpose of Security Measures

Article 66

Within the limits of the general purpose of criminal sanctions (Article 4, paragraph 2), the purpose of security measures is to eliminate the situations or conditions which might influence an offender to commit criminal offences in future.

Types of Security Measures

Article 67

The following security measures may be imposed on offenders:

- 1) mandatory psychiatric treatment and confinement in a medical institution;
- 2) mandatory psychiatric outpatient treatment;
- 3) mandatory medical treatment of a drug addict;
- 4) mandatory medical treatment of an alcoholic;
- 5) prohibition of performing profession, activity or duty;
- 6) prohibition against operating a motor vehicle;
- 7) confiscation of objects;
- 8) expulsion of a foreigner 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 an offender provided that conditions for their imposition provided for by this Code exist.

(2) Mandatory psychiatric treatment and confinement in a medical institution and mandatory psychiatric outpatient treatment shall be imposed as an individual sanction to a mentally incapacitated offender. Besides these measures, the court may also order the prohibition of performing profession, activity or duty, prohibition against operating a motor vehicle and confiscation of objects.

(3) The measures referred to in paragraph 2 of this Article may be imposed to an offender whose mental capacity has been significantly reduced if a sentence or suspended sentence has already been imposed to him/her.

(4) Mandatory medical treatment of a drug addict, mandatory medical treatment of an alcoholic, prohibition of performing profession, activity or duty, prohibition against operating a motor vehicle, confiscation of objects and publication of a judgment may be imposed if the sentence, suspended sentence or judicial admonition has already been imposed or if the offender has been remitted of penalty.

(5) Expulsion of a foreigner from the country may be imposed if a sentence or suspended sentence has been imposed to an offender.

(6) A security measure shall be imposed for concurrent criminal offences if the court determines it for at least one of the concurrent criminal offences.

Mandatory Psychiatric Treatment and Confinement in a Medical Institution

Article 69

(1) The court shall impose mandatory psychiatric treatment and confinement in an appropriate medical institution to an offender who has committed a criminal offence in the state of significantly reduced mental capacity if it ascertains that in consideration of the committed offence and the state of mental alienation there is a serious danger that the offender thereof can commit a more serious criminal offence and that it is necessary to order her/his medical treatment in such an institution in view of eliminating the danger thereof.

(2) If the conditions referred to in paragraph 1 of this Article are met, the court shall order mandatory treatment and confinement in a medical institution to an offender who has committed an unlawful act that the law defines as a criminal offence while in the state of mental incapacity.

(3) The court shall discontinue the measure referred to in paragraphs 1 and 2 of this Article once it ascertains that the need for treatment and confinement of the offender in a medical institution has ceased.

(4) The measure referred to in paragraph 1 of this Article that is imposed with the imprisonment sentence may last longer than the imposed sentence.

(5) The time that the offender who has committed a criminal offence in the state of significantly reduced mental capacity and who has been sentenced to imprisonment sentence has spent in a medical institution shall be credited against the imposed sentence. If the period spent in a medical institution is shorter than the duration of the imposed sentence, once the security measure is terminated, the court shall order that the convicted person be sent to serving the remaining sentence or be released on parole. When deciding about the release on parole, the court shall particularly give consideration to how successful the convicted person's treatment was, her/his health condition, the time spent in a medical institution and the remaining sentence that the offender has not served, in addition to the conditions referred to in Article 37 of this Code.

Mandatory Outpatient Psychiatric Treatment

Article 70

(1) The court shall impose mandatory outpatient psychiatric treatment to an offender who has committed an unlawful act that is laid down by law as a criminal offence while in the state of mental incapacity if it ascertains that there is a serious danger that the offender will commit an unlawful act that is laid down by law as a criminal offence and that, in view of eliminating this danger, her/his outpatient treatment would suffice.

(2) The measure referred to in paragraph 1 of this Article may be imposed also to a mentally incapacitated offender on whom mandatory psychiatric treatment and confinement in an appropriate medical institution have been imposed when the court on the basis of the results of the treatment ascertains that her/his confinement and treatment in that institute is no longer needed, and that her/his outpatient treatment would suffice.

(3) Under the conditions referred to in paragraph 1 of this Article, the court may also impose mandatory outpatient psychiatric treatment to an offender whose mental capacity was significantly reduced if s/he was imposed a suspended sentence or released on parole pursuant to Article 69, paragraph 5 of this Code.

(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, but the periodical treatment in a medical institution may not last for more than fifteen days incessantly, nor longer than two months altogether.

(5) Mandatory outpatient psychiatric treatment shall last as long as there is a need for a treatment, but not longer than three years.

(6) In the case referred to in paragraphs 1 through 3 of this Article, if the offender does not undergo outpatient treatment, or terminates it at her/his own will, or if despite treatment thereof the danger arises that s/he will commit again an unlawful act provided for by law as a criminal offence that may render her/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 a Drug Addict

Article 71

(1) The court shall impose mandatory treatment to an offender who has committed a criminal offence because of addiction to narcotic drugs and if there is a serious danger that s/he might continue committing criminal offences due to this addiction.

(2) The measure referred to in paragraph 1 of this Article shall be enforced in an institution for the enforcement of sentences or in an appropriate medical or other specialized institution and shall last for as long as there is a need for treatment, but not longer than three years.

(3) When the measure referred to in paragraph 1 of this Article is imposed with the imprisonment sentence, it may last longer than the imposed sentence but its total duration may not be more than three years.

(4) The time spent in the institution for medical treatment shall be credited against the imprisonment sentence.

(5) Where a measure referred to in paragraph 1 of this Article is imposed with a fine, a suspended sentence, judicial admonition or remission of penalty, it shall be enforced at liberty and may not last for more than three years.

(6) If an offender without justified reasons does not undergo an outpatient treatment or leaves the treatment at his/her will, the court shall order the coercive enforcement of the measure in an appropriate medical or other specialized institution.

Mandatory Medical Treatment of an Alcoholic

Article 72

(1) The court shall impose a mandatory medical treatment to an offender who has committed a criminal offence because of addiction to alcohol consumption and if there is a serious danger that s/he might continue committing criminal offences due to this addiction.

(2) The measure referred to in paragraph 1 of this Article shall be enforced in an institution for enforcement of imprisonment sentences or in an appropriate medical or other specialized institution and shall last for as long as there is a need for treatment, but not longer than the imposed imprisonment sentence.

(3) The time spent in an institution for medical treatment shall be credited against the imprisonment sentence.

(4) Where a measure referred to in paragraph 1 of this Article is imposed with a fine, suspended sentence, judicial admonition or remission of penalty, it shall be enforced at liberty and may not last for more than two years.

(5) If an offender does not undergo an outpatient treatment or leaves the treatment at her/his will without justified reasons, the court shall order the coercive enforcement of the measure thereof in an appropriate medical or other specialized institution.

Prohibition of Performing Profession, Activity or Duty

Article 73

(1) The court may prohibit an offender from performing 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 reasonably deemed that her/his further performance of that activity would be dangerous.

(2) The court shall determine the duration of the measure referred to in paragraph 1 of this Article and it may not be shorter than one nor longer than ten years counting from the day when the judgment thereof has become legally-binding, provided that the time spent in a prison or in

medical institution in which the security measure has been enforced shall not be credited against the term of this measure.

(3) If it imposes a suspended sentence, the court may order that the sentence shall be revoked if the offender violates the prohibition thereof from performing profession, activity or duty.

Prohibition against Operating a Motor Vehicle

Article 74

(1) The court may impose a prohibition against operating a motor vehicle to a person who has committed a criminal offence endangering public traffic.

(2) When imposing the measure referred to in paragraph 1 of this Article, the court shall determine to which type and category of vehicles the prohibition thereof refers to.

(3) The measure referred to in paragraph 1 of this Article may be imposed by the court if it ascertains that the seriousness of the committed offence, the circumstances under which the offence was committed or previous violations of traffic regulations by the offender indicate that it is dangerous to let this person operate a motor vehicle of a certain type or category.

(4) The court shall determine the duration of the measure referred to in paragraph 1 of this Article which may not be shorter than three months nor longer than five years counting from the day when the judgment becomes legally-binding provided that the time served in prison or in an institution in which the security or corrective measure is enforced shall not be credited against the term of this measure.

(5) If the measure referred to in paragraph 1 of this Article is imposed to a person who holds a foreign license for operating a motor vehicle, the prohibition shall refer to operating a motor vehicle on the territory of Montenegro.

(6) If the court imposes a suspended sentence, it can determine that the sentence shall be revoked if an offender violates the prohibition against operating a motor vehicle.

(7) A mandatory prohibition against operating a motor vehicle 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 seized if they are property of the offender.

(2) The objects referred to in paragraph 1 of this Article may be seized even if they are not the property of the offender if so required by the interests of general security or by moral reasons, but also when there is still danger that they would be used for the commission of a criminal offence provided however the rights of third persons to damages by the offender are not encroached.

(3) The law may lay down a mandatory confiscation of objects. The law may also lay down the conditions for confiscation of certain objects in specific cases. The law may lay down mandatory confiscation of objects and the conditions for their confiscation.(4) The law may lay down mandatory destruction of confiscated objects.

Expulsion of a Foreigner from the Country

Article 76

(1) The court may expel from the territory of Montenegro a foreigner who has committed a criminal offence for the period ranging from one to ten years or for good if s/he has committed a repeated criminal offence (Article 43).

(2) When assessing whether to impose the measure referred to in paragraph 1 of this Article, the court shall take into account the time and seriousness of a committed offence, motives from which the criminal offence has been committed, manner in which it was committed as well as other circumstances that indicate to the ineligibility of the foreigner's further stay in Montenegro.

(3) The period of expulsion shall commence on the day the decision thereof becomes legally-binding, provided the time spent in prison shall not be credited against the term of this measure.

(4) The measure referred to in paragraph 1 of this Article shall not be imposed against an offender who enjoys protection in compliance with the ratified international treaties.

Publication of the Judgment

Article 77

(1) When imposing a sentence for criminal offences committed by means of the media or for criminal offences that have caused danger for the lives or health of people and in cases when the publication of the judgment would contribute to removing or reducing that danger, the court may decide to make the judgment publicly known either fully or in brief at the offender's expense, in the same manner or in an another appropriate manner.

(2) Mandatory publication of the judgment may be laid down by law. In that case the court shall decide through which media the judgment in question shall be made publicly known and whether it shall be publicized either fully or in brief.

(3) Publication of the judgment may be done at the latest within the time limit of 30 days of the date the judgment thereof becomes legally-binding.

Termination of Security Measures on the Basis of a Judicial Decision

Article 78

(1) The court may pass a decision by which it shall terminate the security measures of prohibition of performing professions, activity or duty and prohibition against operating a motor vehicle if three years have lapsed from the day of enforcement of the measures thereof.

(2) When assessing whether to order termination of the security measure referred to in paragraph 1 of this Article, the court shall take into account the conduct of the convicted person after the imposition of the conviction, whether s/he has compensated for the damage caused by the criminal offence, whether s/he has returned material benefit obtained through the commission of the criminal offence as well as other circumstances that indicate the justifiability of cessation of the measures thereof.

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 and other provisions of this Code shall apply unless otherwise provided in this Title.

(2) Special provisions that are applicable to juvenile offenders shall apply under the conditions envisaged by the provisions of this Title to adults as well, if they are tried for criminal offences they had committed when they were juveniles and, by way of an exception, if they had committed the offence as young adults.

Exemption of Children from Criminal Sanctions

Article 80

Criminal sanctions may not be applied to a person who at the time of the commission of an unlawful act laid down by law as a criminal offence was under the age of fourteen years (a child).**Corrective Orders**

Article 80a

(1) One or more corrective orders may be imposed against a juvenile offender for the criminal offence for which a fine or imprisonment sentence not exceeding five years is provided for.

(2) Corrective orders against a juvenile may be imposed by the court at its own discretion or at the proposal of the competent Public Prosecutor.

(3) Conditions for application of corrective orders are: confession of a criminal offence by the juvenile and his/her relation toward the criminal offence and the injured party.

Purpose of Corrective Orders

Article 80b

The purpose of corrective orders is to not initiate criminal proceedings against a juvenile or to discontinue proceedings or to affect the proper development of a juvenile and strengthen his/her personal responsibility by applying the corrective order, so that in the future s/he would not commit criminal offences.

Types of Corrective Orders

Article 80c

Corrective orders are:

1) settlement with the injured person so as to remove wholly or partially the detrimental consequences of the act via damages, apology, work, or otherwise;

2) regular attendance of school or going to work regularly;

3) inclusion, without compensation, into the work of humanitarian organizations and social, local or environmental affairs;

4) undergoing appropriate testing and addiction rehabilitation caused by the use of alcoholic beverages or narcotic drugs;

5) inclusion into individual or group treatment in an appropriate medical institution or counselling office.

Selection of a Corrective Order

Article 80d

1) When selecting a corrective order the competent Public Prosecutor and the court, in accordance with their powers, shall take into account the interests of the juvenile and the injured person in general, making sure that the application of one or more corrective orders does not interfere with schooling or employment of the juvenile.

2) Corrective orders may not exceed six months, and within that period they may be replaced by other corrective order or terminated.

(3) Selection and application of corrective orders shall be done in collaboration with parents, adoptant parents or guardians of juveniles and the competent guardianship authority.

Application of Corrective Orders

Article 80e

Application of corrective orders referred to in Article 80c of this Law 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 junior juvenile) may be imposed corrective 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 (a senior juvenile) may be imposed corrective measures, and by way of exception, a sentence of juvenile custody.

(3) Security measures may also be imposed on a juvenile under the conditions provided for in Article 109 of this Code.

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

Purpose of Corrective Measures and Juvenile Custody

Article 82

Within the limits of the general purpose of criminal sanctions (Article 4, paragraph 2), the purpose of corrective measures and juvenile custody is to ensure their education, corrective training and proper development, by providing protection and assistance to juvenile offenders, extending supervision over them, vocational training and development of personal responsibility. The purpose of juvenile custody is also to exercise increased influence on juvenile offenders in order to prevent them from committing criminal offences in the future as well as on other juveniles against committing criminal offences.

2. Corrective Measures

Types of Corrective Measures

Article 83

The following corrective measures may be imposed to a juvenile offender:

- 1) disciplinary measures: a reprimand and committal to a correctional centre for juveniles;
- 2) measures of increased supervision: increased supervision by parents, adoptant parents or guardians; increased supervision by guardianship authority and increased supervision with daily stay in an appropriate institution for juvenile education;
- 3) institutional measures: committal to a correctional institution; committal to a reformatory as well as to a special institution for medical treatment and rehabilitation.

Selection of a Corrective Measure

Article 84

When selecting a corrective measure, the court shall take into account the age, degree of mental development, mental capacities, propensities and degree of juvenile's educational neglect, the motives out of which s/he has committed an offence, former education, the environment and situation in which s/he has lived, the seriousness of the offence, whether a corrective measure or a sentence had been imposed to the juvenile before as well as all other circumstances which might influence the imposition of the measure that shall best meet the purpose of corrective measures.

Imposition of Corrective Measures

Article 85

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

(2) Measures of increased supervision shall be imposed to a juvenile if it appears necessary to submit him/her to extended measures of education, corrective training or treatment with adequate supervision but where it is not necessary to completely detach him/her from the old environment.

(3) Institutional measures shall be imposed to a juvenile when it appears necessary to submit him/her to extended measures of education, corrective training or treatment but also of her/his detachment from the old environment and if the court finds that the purpose of corrective measures may not be achieved by applying the measures referred to in paragraphs 1 and 2 of this Article. Corrective measures in institutions shall last, within the limits envisaged by this Code, only until the purpose provided for in Article 82 of this Code is achieved.

Reprimand

Article 86

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

(2) When imposing a reprimand, the court shall point up the wrongness of her/his act to the juvenile and shall inform him/her about possibility to impose a more severe sanction if s/he commits a criminal offence again.

Committal to a Correctional Centre for Juveniles

Article 87

(1) The court shall impose to a juvenile the measure of committal to a correctional centre for juveniles, if it is necessary to influence her/his personality and conduct through appropriate short-term measures.

(2) The court shall commit a juvenile who was imposed the measure referred to in paragraph 1 of this Article to a correctional centre for two hours twice a week, within the period of eight to twelve weeks.

(3) When imposing this measure consideration shall be given to the need that the juvenile thereof is not absent from school or job due to the enforcement of this measure.

(4) When the court had imposed committal to a correctional centre for juveniles, it may order that a juvenile is submitted under increased supervision by a guardianship authority upon the enforcement of this measure.

Increased Supervision by Parents, Adoptant Parents or Guardians

Article 88

(1) Measure of increased supervision by parents, adoptant parents or guardians shall be imposed by the court if parents, adoptant parents or guardians are capable to perform such a supervision and if it can reasonably be expected of them.

(2) This measure shall last from six months to two years and the court can decide on its termination in due course.

(3) Where the court imposes the measure referred to in paragraph 1 of this Article it shall give parents, adoptant parents and guardians all necessary instructions and order them certain duties which they need to undertake for the purpose of juvenile corrective training, medical treatment and removal of harmful influence on him/her.

(4) When the court imposes the measure referred to in paragraph 1 of this Article it shall determine that the guardianship authority shall supervise its enforcement and provide assistance to parents, adoptant parents or guardians.

Increased Supervision by a Guardianship Authority

Article 89

(1) If a parent, adoptant parent or a guardian is incapable of exercising the increased supervision, a juvenile shall be placed under increased supervision of a guardianship authority.

(2) This measure shall last from six months to two years and the court shall decide on its termination in due course.

(3) In the course of this measure the juvenile shall still live with her/his parents or other persons who maintain him/her or care for him/her and increased supervision over him/her shall be done by an official of the guardianship authority or some other professional appointed by the guardianship authority.

(4) A guardianship authority shall look after the juvenile's education, employment, and detachment from the environment that has a harmful influence on him/her, necessary medical treatment and putting his living circumstances in order.

Increased Supervision with Daily Stay in an Institution for Juvenile Education

Article 90

(1) A corrective measure of increased supervision with daily stay in an institution for juvenile education may be imposed by the court with increased supervision by parents, adoptant parents or guardians or with increased supervision by a guardianship authority when an engagement of professionals in an institution for juvenile education is necessary.

(2) This measure, apart from increased supervision by parents, adoptant parents or guardians and increased supervision by the guardianship authority shall also contain an obligation of a daily stay of juveniles in a relevant institution in charge of juvenile education.

(3) This measure shall last from six months to two years and the court shall decide on its termination in due course.

(4) In the course of this measure the juvenile shall still live with his/her parents or other persons who maintain him/her or care about him/her, and under the decision of the court increased supervision over him/her shall be performed by parents, adoptant parents or guardians or a guardianship authority.

(5) The guardianship authority shall supervise the manner of enforcement of this measure.

Special Obligations with Increased Supervision

Article 91

(1) When imposing some of corrective measures of increased supervision, the court may determine one or more of the following obligations for a juvenile, if so needed for a successful accomplishment of the purpose of the imposed measure, as follows:

- 1) to apologize to an injured person personally;
- 2) to remove the damage caused by the criminal offence within the limits of his/her abilities;
- 3) to attend school regularly or to go to work regularly;
- 4) to take a vocational training course that is appropriate for his/her capabilities and propensities;
- 5) to refrain from alcohol and drug consumption or to undergo an appropriate medical treatment;
- 6) to visit an appropriate medical institution or a counselling office and to follow the instructions received from the institution thereof;

7) to stay in some other family which is willing to take him/her and which is capable of administering supervision over him/her. (2) The court may designate as a special obligation to the juvenile to perform humanitarian, cultural, environmental and other affairs of public interest free of charge. Work on these affairs shall last thirty hours during one month and it shall be determined so that it can be done during a period that can not be less than one month nor more than four months. In determining this obligation the court shall take consideration not to interfere with schooling or employment.

(3) Parents, adoptant parents or guardians of a juvenile to whom one or more obligations referred to in paragraph 1 of this Article were imposed, shall be obliged to inform the guardianship authority in timely manner about the change of or longer absence from the permanent or temporary residence.

(4) Obligations referred to in paragraphs 1 and 2 of this Article shall not exceed the period to which corrective measure thereof has been imposed although the court may replace or revoke the obligations it has ordered.

(5) When ordering the obligations referred to in paragraph 1 of this Article, the court shall particularly point up to the juvenile and his/her parents, adoptant parents or guardians that in case

of failure to meet the obligations thereof the imposed measure of increased supervision may be replaced with some other corrective measure.

Committal to a Correctional Institution

Article 92

(1) The court shall impose the measure of committal to a correctional institution when it is necessary to provide a permanent supervision by professionals for a juvenile.

(2) A juvenile shall stay in a correctional institution for six months at least and two years at most and the court shall, in the course of that measure, decide on its termination.

Committal to a Reformatory

Article 93

(1) The court shall impose a measure of committal to a reformatory for juvenile offenders to a juvenile over whom it is necessary to administer intensive measures of corrective training.

(2) When deciding whether to impose the measure referred to in paragraph 1 of this Article, the court shall particularly take into account the degree of educational neglect of a juvenile, seriousness and nature of the committed criminal offence and whether any corrective measure or juvenile custody has been imposed to the juvenile before.

(3) A juvenile shall stay for at least one and at longest four years in a reformatory. The court shall, in the course of that measure, decide on its termination.

Release on Parole from a Reformatory

Article 94

(1) The court may order a release on parole to a juvenile who has stayed in a reformatory for at least one year if, on the basis of success achieved during his/her education and corrective training, it may be reasonably expected that s/he will not commit criminal offences in future and that s/he will behave well in his/her living environment.

(2) The court may decide whether to administer some of the measures of increased supervision over a juvenile during the parole.

(3) Parole shall last at the longest until the expiration of the statutory period of committal to a reformatory unless the court has previously revoked the enforcement of this measure or replaced it with other measure.

(4) If in the course of parole a juvenile commits a criminal offence or fails to comply with the obligations imposed to him/her with the measure of increased supervision, the court may revoke the parole. The time spent on parole shall not be credited against the term of the imposed corrective measure.

Committal to a Specialized Institution for Medical Treatment and Rehabilitation

Article 95

(1) The court may impose a measure of committal to a specialized institution for medical treatment and rehabilitation instead of committal to a correctional institution or a reformatory to a juvenile with arrested mental and physical development or mental illness.

(2) The measure referred to in paragraph 1 of this Article shall be imposed instead of the measure of mandatory psychiatric treatment and confinement in a medical institution if medical treatment and confinement may be provided in a specialized institution for medical treatment and rehabilitation and if thereby the purpose of this security measure may be achieved.

(3) If the measure referred to in paragraph 1 of this Article has been imposed instead of committal to a correctional institution or to a reformatory, the juvenile shall stay in a specialized institution for medical treatment and rehabilitation for maximum three years. If this measure has been imposed instead of a security measure, the juvenile shall stay for as long as it is necessary in a specialized institution, and when s/he reaches the age of twenty three years, the enforcement of the measure shall be resumed in an institution that administers security measures of compulsory psychiatric treatment and confinement in a psychiatric institution.

(4) When a juvenile reaches the age of eighteen years, the court shall be obliged to examine the need of his/her further holding in that institution.

Discontinuation of Enforcement and Replacement of Imposed Corrective Measure by other Corrective Measure

Article 96

(1) After the decision imposing a measure of increased supervision or an institutional measure is imposed, if the circumstances arise that were not existent or known at the time when it was passed, or if the decision may not be executed because the juvenile or his/her parents, adoptant parents or guardians refuse to comply with the order of the authority in charge of enforcing the measure thereof or if some other circumstances laid down by law arise that might influence passing of the decision, the enforcement of the imposed measure may be suspended or the measure thereof may be replaced by other measure of increased supervision or institutional measure.

(2) With the exception of cases referred to in paragraph 1 of this Article, the measure of increased supervision or an institutional measure may be discontinued or replaced with other measure that will better serve the purpose of corrective measures, in consideration of the results achieved in corrective training, unless otherwise provided for a particular measure. Discontinuation of enforcement or replacement with other measure within the limits of institutional measures shall be made with the following limitations:

1) measure of committal to a correctional institution may not be discontinued in enforcement before expiration of the period of six months, whereas it may be replaced prior to expiration of the period thereof by committing the juvenile to a reformatory or to a specialized institution for medical treatment and rehabilitation;

2) measure of committal to a reformatory may not be discontinued in enforcement before expiration of the period of one year, whereas it may be replaced prior to expiration of the period thereof by committing the juvenile to a correctional institution or to a specialized institution for medical treatment and rehabilitation.

Reconsideration of Corrective Measures

Article 97

(1) If more than two years have elapsed from the decision imposing the measure of increased supervision or an institutional measure became legally-binding, whereas the

enforcement thereof has not started yet, the court shall decide again about the need of enforcing the imposed measure. In doing that, the court may decide that a previously imposed measure be or be not enforced or replaced by other measure.

(2) The measure of committal to a correctional centre for juveniles shall not be executed if more than six months have elapsed from the decision imposing that measure became legally-binding, whereas its enforcement has not started yet.

Imposition of Corrective Measures for Concurrent Criminal Offences

Article 98

(1) If a juvenile has committed several concurrent offences, the court shall, assessing all of these offences, impose one of the corrective measures.

(2) The court shall also proceed in the manner referred to in paragraph 1 of this Article if after imposition of a corrective measure it ascertains that the juvenile has committed other criminal offence, prior or after its imposition.

Provision of Data on the Imposed Corrective Measures

Article 99

(1) Data on imposed corrective measures may be disclosed solely to the court, the Public Prosecutor, guardianship authority and institution in charge of juveniles' protection and only if the offender has not reached the age of twenty one.

(2) Data on imposed corrective measures shall be disclosed to the authorities referred to in paragraph 1 of this Article after the offender's age of twenty one if related to criminal offences punishable by an imprisonment sentence exceeding five years is envisaged.

3. Juvenile Custody

Sentencing Senior Juveniles

Article 100

Sentenced may be solely a senior juvenile who has committed a criminal offence for which an imprisonment sentence exceeding five years is provided for by law, where due to a high degree of the offender's guilt and seriousness of his/her criminal offence the imposition of any corrective measure would be unjustified.

Juvenile Custody

Article 101

(1) Juvenile custody shall not be less than six months or exceed eight years. By way of exception, for criminal offences punishable by a minimum imprisonment sentence of ten years, juvenile custody not exceeding ten years may be imposed.

(2) Juvenile custody shall be imposed in full years and months.

(3) Senior juveniles shall serve their sentence of juvenile custody in specialized detention and rehabilitation centres in which they may stay by the age of twenty three years. Should it happen that their serving of the sentence be not completed by that time, they shall be sent to a detention and rehabilitation institution intended for adults who serve their imprisonment sentence. By way of exception, a person shall be allowed to stay in a detention and rehabilitation centre for juveniles after having reached the age of twenty three years, if indispensable in view of the completion of his/her education or vocational training, but not after s/he has reached the age of twenty five years.

Release on Parole from Juvenile Custody

Article 102

(1) A person who was imposed the sentence of juvenile custody may be released on parole by a court of law from serving the sentence of juvenile custody, if s/he served one third of the imposed sentence, but not less than one year, and if it may be reasonably expected, based on the success achieved in his/her corrective training, that such a person shall behave correctly while at liberty and shall restrain from perpetrating criminal offences in future. The court of law may, along with the parole, impose also the measure of increased supervision.

(2) Provisions of Article 38 of this Code shall apply accordingly for revocation of the parole.

Fixing the Sentence of Juvenile Custody

Article 103

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

(2) A court of law may not impose the sentence of juvenile custody for a specific criminal offence for a period of time exceeding the imprisonment sentence laid down for such an offence, but it shall not be bound by the minimum provided for measure of such a sentence.

Fixing the Sentence of Juvenile Custody for Concurrent Criminal Offences

Article 104

(1) Should a senior juvenile commit several concurrent criminal offences, and the court ascertains that at least for one of these offences the sentence of juvenile custody is to be imposed, the court of law shall fix a cumulative sentence for all these offences within the limits laid down in Article 100 of this Code.

(2) Should it be ascertained by a court of law that a senior juvenile has to be punished for a concurrent criminal offence, while for other criminal offences s/he is to be imposed corrective measures, the court shall impose for all concurrent offences solely the sentence of juvenile custody.

(3) A court of law shall also proceed in the manner referred to in paragraphs 1 or 2 of this Article should it be ascertained after the imposed sentence that the sentenced person has committed another criminal offence, prior or after the imposition thereof.

Statute of Limitations for the Enforcement of Juvenile Custody Sentence

Article 105

The sentence of juvenile custody may not be executed in the event of expiration of:

- 1) ten years from the juvenile custody sentence exceeding five years;
- 2) five years from the juvenile custody sentence exceeding three years;
- 3) three years from the juvenile custody sentence not exceeding three years.

Cessation of Corrective Measures due to the Imposition of Juvenile Custody Sentence

Article 106

Should a court of law, during the term of a corrective measure, impose on a senior juvenile the sentence of juvenile custody, the corrective measure shall cease upon the commencement of serving the imprisonment sentence by the convicted person.

Effect of the Sentence on Corrective Measures

Article 107

Should a court of law, during the term of a corrective measure, impose on an adult the sentence of juvenile custody (Article 110, paragraph 3) or an imprisonment sentence (Article 110, paragraph 4) of at least one year, the corrective measure shall cease when the person in question commences to serve his/her sentence; if an imprisonment sentence of shorter duration is imposed, the court shall decide by its judgment whether the corrective measure shall be continued or cancelled once the sentence has been served.

Effect of Corrective Measures and of Juvenile Custody

Article 108

(1) Corrective measures and juvenile custody shall not entail any legal consequences consisting in the prohibition of acquiring specific rights.

(2) Persons on whom a measure of committal to a reformatory or a sentence of juvenile custody is imposed shall not be allowed to perform, during the term of the corrective measure i.e. juvenile custody sentence, certain affairs or functions in state bodies, local self-government bodies, business organisations and other entities that operate using state property or organizations assigned by law the performance of certain public authorizations.

Imposing Security Measures to Juveniles

Article 109

(1) Security measures, with the exception of prohibition of performing profession, activity or duty, may be imposed to juveniles, should a corrective measure or juvenile custody be imposed on them.

(2) Security measures of mandatory medical treatment of drug addicts and mandatory treatment of alcoholics, shall not be imposed along with disciplinary corrective measures.

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

4. Applicability of Provisions related to Juveniles on Adults

Imposing Criminal Sanctions to Adults for Offences they have Committed as Juveniles

Article 110

(1) An adult who has reached the age of twenty one year may not be tried for a criminal offence committed by him/her as a junior juvenile.

(2) An adult who at the time of a trial has not reached the age of twenty one year, may be tried for criminal offences committed by him/her as a junior juvenile, solely that criminal offence is punishable by an imprisonment sentence exceeding five years. The court may impose on such a person solely the measure of increased supervision by a guardianship authority or an appropriate corrective measure in an institution. When assessing which of these measures to impose, a court of law shall take into account all circumstances of the case, specifically the seriousness of the committed offence, the time elapsed from its commission, the conduct of the offender, as well as the purpose of this corrective measure.

(3) Solely the measure of increased supervision by a guardianship authority or an appropriate corrective measure in an institution may be imposed on an adult who committed a criminal offence as a senior juvenile, whereas under the conditions referred to in Article 100 of this Code s/he may be imposed the sentence of juvenile custody. When assessing which of these sanctions to impose, a court of law shall take into account all circumstances of the case, specifically the seriousness of the committed offence, the time elapsed from its commission, the conduct of the offender, as well as the purpose to be achieved by these sanctions.

(4) By way of exception to the provision of paragraph 3 of this Article, an adult who at the time of trial has reached the age of twenty one year may be imposed imprisonment sentence instead of juvenile custody by the court, the duration of which shall be determined within the limits provided for by Art. 101 and 104 of this Code. The imprisonment sentence imposed in this case shall have, with reference to rehabilitation and legal consequences, the same legal consequence as the sentence of juvenile custody.

Imposing Corrective Measures to Young Adults

Article 111

(1) An offender who committed a criminal offence as an adult but at the time of trial did not reach the age of twenty-one may be imposed by the court a measure of increased supervision by a guardianship authority or a measure of committal to a reformatory, if it is to be expected, taking into consideration his/her personality and circumstances under which the offence was committed, that these corrective measures shall help to achieve the same purpose as if a sentence were enforced.

(2) A young adult who was imposed a corrective measure may be imposed by the court, under the conditions envisaged by this Code, all security measures with the exception of prohibition of performing profession, activity or duty.

TITLE SEVEN

SEIZURE OF MATERIAL BENEFIT

Grounds for Seizure of Material Benefit

Article 112

(1) No person shall retain any material benefit obtained by a criminal offence.

(2) The benefit referred to in paragraph 1 of this Article shall be seized under the conditions envisaged by this Code, by a judicial decision ascertaining the commission of a criminal offence.

Conditions and Manner of Seizing the Material Benefit

Article 113

(1) Money, things of value and all other material benefits obtained by a criminal offence shall be seized from the offender; should such a seizure be not possible, the offender shall be obliged to pay for the monetary value of the obtained material benefit.

(2) Material benefit obtained by a criminal offence shall also be seized from the persons it has been transferred to without compensation or under a compensation that obviously does not correspond to its real value.

(3) Seized shall also be any property obtained by a criminal offence in favour of other persons.

Protection of Injured Party

Article 114

(1) Should, in the course of criminal proceedings, a claim under property law of the injured party be upheld, the court shall impose the seizure of material benefit solely if such material benefit exceeds the claim under property law of the injured party adjudicated in that amount.

(2) The injured party who, in the course of criminal proceedings, has been referred to institute civil proceedings in respect to any kind of claim under property law, may ask to be compensated from the seized material benefit, should s/he institute civil proceedings within the period of six months of the date the decision on his/her referral to civil proceedings becomes legally-binding and should s/he, within the time limit of three months of the date the decision upholding his/her claim under property law becomes legally-binding, ask to be compensated from the seized material benefit.

(3) The injured party who, in criminal proceedings, has failed to lodge a claim under property law, may request to be compensated from the seized material benefit should, for the purpose of his/her claim, s/he have instituted civil proceedings within the time limit of three months of the date of coming to the knowledge of the judgment imposing the seizure of material benefit, and at the latest within the period of three years of the date the decision on seizure of material benefit becomes legally-binding and should s/he, within the period of three months of the date the

decision upholding his/her claim under property law becomes legally-binding, ask to be compensated out of the seized material benefit.

TITLE EIGHT

LEGAL CONSEQUENCES OF CONVICTION

Occurrence of Legal Consequences of Conviction

Article 115

(1) Convictions for certain criminal offences or to certain sentences may have as a legal consequence the cessation i.e. forfeiture of specific rights or prohibition to acquire certain rights.

(2) Legal consequences of conviction may not have effect when a fine has been imposed on the offender for a criminal offence or a suspended sentence, should it not be revoked, or a judicial admonition, or when the offender has been remitted of sentence.

(3) Legal consequences of conviction may be envisaged solely by law and shall have effect by force of the law that envisaged them.

Types of Legal Consequences of Conviction

Article 116

(1) Legal consequences of conviction related to the cessation or forfeiture of specific rights are the following:

- 1) cessation of exercising a public function;
- 2) cessation of service or practicing a profession or occupation;
- 3) loss of certain permits or licenses issued by the decision of a state body or a local self-government body.

(2) Legal consequences of conviction consisting of prohibition of acquisition of specific rights are:

- 1) prohibition of obtaining certain public functions;
- 2) prohibition to obtain a specific title, profession or occupation, or promotion in service;
- 3) prohibition to be awarded the rank of a military officer;
- 4) prohibition to obtain certain permits or licenses issued by a decision of state bodies or local self-government bodies.

Commencement and Duration of Legal Consequences of Convictions

Article 117

(1) Legal consequences of conviction shall have effect on the day the judgment becomes legally-binding.

(2) Should it happen that, once a judgement on the basis of which legal consequences of conviction took effect becomes legally-binding, the judgment in question be changed in compliance with an extraordinary legal remedy, effect or further continuation of legal consequences of conviction shall be brought into compliance with the new decision.

(3) Legal consequences of conviction consisting of the prohibition to acquire certain rights, may be laid down for a period not exceeding ten years at the longest.

(4) The time spent while serving a sentence shall not be credited against the duration of a legal effect of conviction.

(5) Legal consequences of conviction envisaged by Article 116, paragraph 2 of this Code shall cease by rehabilitation.

TITLE NINE

REHABILITATION, DISCONTINUANCE OF LEGAL CONSEQUENCES OF CONVICTION AND DISCLOSURE OF DATA FROM CRIMINAL RECORDS

General Notion of Rehabilitation

Article 118

(1) It is by means of rehabilitation that conviction shall be erased and all its legal consequences cease, whereas the convicted person shall be deemed having no prior convictions.

(2) Rehabilitation shall have effect either by law (legal rehabilitation) or upon a petition by a convicted person based on the judicial decision (judicial rehabilitation).

(3) No rights of third persons founded on conviction shall be infringed upon by rehabilitation.

Legal Rehabilitation

Article 119

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

(2) Legal rehabilitation shall have effect in the following instances:

1) if a person declared guilty but remitted of sentence, or imposed a judicial admonition, does not commit any new criminal offence within the time limit of one year of the date the judgment becomes legally-binding;

2) if a person on whom a suspended sentence was imposed does not commit any new criminal offence during the probation term and within the time limit of one year from the expiration of the probation term;

3) if a person sentenced to a fine, community service or imprisonment sentence not exceeding six months does not commit any new criminal offence within the time limit of three years of the date of enforcement, barring by statute of limitations or remission of the sentence thereof;

4) if a person sentenced to imprisonment sentence ranging from six months to one year, does not commit any new criminal offence within the period of five years of the date of enforcement, barring by statute of limitations or remission of the sentence thereof.

(3) Legal rehabilitation shall not have effect if an accessory punishment has not yet been executed or if security measures are still in force.

Judicial Rehabilitation

Article 120

(1) Judicial rehabilitation may be approved to a person sentenced to imprisonment sentence ranging from one year to two years, should within the time limit of five years of the date the sentence has been served, barred by statute of limitations or pardoned, no new criminal offence be committed by that person.

(2) Judicial rehabilitation may be approved to a person sentenced to imprisonment sentence ranging from two years to three years, should no new criminal offence be committed by that person within the time limit of eight years of the date the sentence has been served, barred by statute of limitations of pardoned.

(3) In cases referred to in paragraphs 1 and 2 of this Article a court of law shall approve rehabilitation if it ascertains that the convicted person has deserved to be rehabilitated by his/her conduct and if s/he has compensated for the damage caused by his/her criminal offence according to his/her financial possibilities, whereat the court shall take into account all other circumstances of relevance for approving rehabilitation, and specifically the very nature and significance of the criminal offence.

(4) Judicial rehabilitation may not be approved if an accessory punishment has not yet been executed 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 of this Code are met with reference to each of criminal offences that person has been convicted for. When assessing whether to grant rehabilitation in such a case, the court shall take into account all circumstances referred to in Article 120, paragraph 3 of this Code.

Cessation of Legal Consequences of Conviction

Article 122

(1) After the lapse of three years of the date of served, barred by statute of limitations or pardoned sentence, a court of law may decide on discontinuation of legal consequences of conviction related to the prohibition to acquire a specific right, if it has not already ceased due to rehabilitation.

(2) When deciding on discontinuation of legal consequences of conviction, the court shall take into account the convicted person's conduct after having been convicted, whether s/he has compensated for the damage caused by his/her criminal offence and returned back the material benefit obtained by commission of a criminal offence, as well as other circumstances that indicate to the justifiability of discontinuation of legal consequences of conviction.

Disclosure of Data from Criminal Records

Article 123

(1) Criminal records shall contain personal data on the offender, data on criminal offence, data on the sentence, suspended sentence, judicial admonition, remission and pardoned sentence, as well as data on legal consequences of conviction. Subsequent changes of data comprised in

criminal records, data on serving the sentence and cancellation of record on a wrongfully imposed sentence shall be entered in the criminal records.

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

(3) Data from the criminal records may be disclosed solely to a court of law, the Public Prosecutor and internal affairs authority, related to the criminal proceedings conducted against a person who has prior convictions, as well as to the body in charge of enforcement of criminal sanctions and the body that participates in the procedure of granting amnesty, pardon, rehabilitation or deciding on cessation of legal consequences of conviction, same as to the guardianship authorities when so needed for the conduct of affairs within their competence.

(4) Data from criminal records may also be disclosed upon a reasoned request to a state body, business organisation, other organization or entrepreneur, if legal consequences of conviction or security measures are still lasting and if there exists a justified interest based on law.

(5) No person shall be entitled to request from a citizen to submit any evidence on his/her prior convictions or non-existence of such prior convictions.

(6) Upon a request of a citizen, data on the existence or non-existence of prior convictions may be presented to them solely if such data are needed in view of exercising their rights abroad.

TITLE TEN STATUTE OF LIMITATIONS

Prosecution Barred by the Statute of Limitations

Article 124

Unless otherwise provided 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 an imprisonment sentence of forty years;

2) twenty years from the commission of a criminal offence punishable under law by an imprisonment sentence exceeding fifteen years;

3) fifteen years from the commission of a criminal offence punishable under law by an imprisonment sentence exceeding ten years;

4) ten years from the commission of a criminal offence punishable under law by an imprisonment sentence exceeding five years;

5) five years from the commission of a criminal offence punishable under law by an imprisonment sentence exceeding three years;

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

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

Course and Interruption of Prosecution Barring by Limitation

Article 125

(1) Prosecution barring by limitation shall commence on the day of commission of a criminal offence. If a consequence of a criminal offence occurs at a later time, prosecution barring by limitation shall commence on the day the consequence occurred.

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

(3) Barring by limitation shall be interrupted by each procedural action taken in view of detecting a criminal offence or discovering and prosecuting an offender due to the committed criminal offence.

(4) Barring by limitation shall also be interrupted when an offender commits equally serious or more serious criminal offence while the period of barring by limitation runs.

(5) Upon each interruption, barring by limitation shall start to run again.

(6) Prosecution barring by limitation shall have effect in any case upon expiration of twice the time required under law for prosecution barring by limitation.

Barring by Limitation of Enforcement of a Sentence

Article 126

(1) Unless otherwise provided by this Code, the imposed sentence may not be enforced after the expiration of:

1) twenty years from the conviction to an imprisonment sentence exceeding fifteen years;

2) fifteen years from the conviction to an imprisonment sentence exceeding ten years;

3) ten years from the conviction to an imprisonment sentence exceeding five years;

4) five years from the conviction to an imprisonment sentence exceeding three years;

5) three years from the conviction to an imprisonment sentence exceeding one year or community service;

6) two years from the conviction to an imprisonment sentence not exceeding one year or a fine.

(2) Execution of the imprisonment sentence of forty years shall not be barred by statute of limitations.

Barring by Limitation of Execution of an Accessory Punishment and a Security Measure

Article 127

(1) Barring by limitation of enforcement of a fine as an accessory punishment shall have effect after expiration of two years of the date the judgment imposing that sentence becomes legally-binding.

(2) Barring by limitation for enforcement of a security measure consisting of mandatory outpatient psychiatric treatment, mandatory medical treatment of drug addicts, and mandatory medical treatment of alcoholics and seizure of things shall have effect after expiration of five years of the date the decision imposing those measures becomes legally-binding.

(3) Barring by limitation for enforcement of a security measure consisting of prohibition of performing profession, activity or duty, prohibition against operating a motor vehicle and expulsion of a foreigner from the country, shall have effect after expiration of the time period for which these measures have been imposed.

(4) Enforcement of the security measure consisting of mandatory psychiatric treatment and confinement in a medical institution shall not be barred by statute of limitations; however, if more than five years elapsed from the date the sentence imposing the security measure became legally-binding, but its enforcement has not yet commenced, the court shall examine whether the enforcement of this measure is still needed.

Course and Interruption of Barring by Limitation for Enforcement of Sentences and Security Measures

Article 128

(1) Barring by limitation for enforcement of a sentence shall commence of the date when the judgment imposing the sentence becomes legally-binding, and should a suspended sentence be revoked – of the date the decision on revocation became legally-binding.

(2) Should the imposed sentence be reduced by an act of amnesty or pardon or judicial decision upon an extraordinary legal remedy, the time period needed for barring by limitation to have effect shall be determined against the new sentence, but the period of barring by limitation shall be calculated against the former legally-binding decision.

(3) Barring by limitation shall not run during the time period in which enforcement of a sentence may not be undertaken under law.

(4) Barring by limitation shall be interrupted by each action of a competent authority taken in view of enforcement of a sentence.

(5) Upon each interruption, barring by limitation shall commence to run again.

(6) Barring by limitation for enforcement of a sentence shall have effect in any case after expiration of twice the time laid down by law for barring by limitation for enforcement of a sentence.

(7) In the event of barring by limitation referred to in paragraph 6 of this Article, already commenced enforcement of a sentence shall be discontinued.

(8) The provisions of paragraphs 2 to 5 of this Article shall also apply accordingly to barring by limitation for enforcement of security measures.

Prosecution and Sentence Enforcement not Subject to the Statute of Limitations

Article 129

Prosecution and enforcement of a sentence for criminal offences envisaged by Articles 426 to 431 of this Code shall not be subject to barring by limitation, nor for criminal offences not subject to barring by limitation under ratified international treaties.

TITLE ELEVEN AMNESTY AND PARDON

Amnesty

Article 130

(1) Persons covered by an act of amnesty shall be released from prosecution or completely or partially remitted of sentence, the imposed sentence shall be replaced by a less severe sentence, rehabilitation shall be granted or specific or all legal consequences of conviction revoked.

(2) Repealed by amnesty may also be the following security measures: prohibition of performing profession, activity or duty, prohibition against operating a motor vehicle and expulsion of foreigners from the country.

Pardon

Article 131

(1) By means of pardon, a specifically named person shall be released from prosecution or completely or partially remitted of sentence, an imposed sentence shall be replaced by a less severe sentence or a suspended sentence, rehabilitation shall be granted, shorter duration of a specific legal consequence of conviction reduced or specific or all legal consequences of conviction repealed.

(2) By means of pardon, the security measure of prohibition of performing profession, activity or duty, prohibition against operating a motor vehicle and expulsion of foreigners from the country may be repealed or reduced.

Effect of Amnesty and Pardon on Rights of Third Persons

Article 132

Granting of amnesty or pardon shall not infringe upon the rights of third persons founded on a conviction.

TITLE TWELVE

APPLICABILITY OF CRIMINAL LEGISLATION
OF THE REPUBLIC OF MONTENEGRO

Applicability of Criminal Legislation with Respect to the Time

Article 133

(1) The law in force at the time of commission of a criminal offence shall apply to an offender.

(2) Should it happen that in the course of commission of a criminal offence the applicable law be amended, applied shall be the law in force at the time of completion of the criminal offence.

(3) Should it happen that after commission of a criminal offence the law be amended once or more times, applied shall be the law that is the most favourable to the offender.

(4) The law of a limited applicability with respect to the time shall be enforced to a perpetrator of a criminal offence which is laid down by that law, regardless of when the offender in question is to be tried, unless otherwise provided by the law in question.

(5) Security measures and corrective measures provided for by the new law may be applied to an offender if not less favourable to him/her than those that could have been applied under the law in force at the time of commission of a 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 national 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 in a domestic civil aircraft while at flight or in a domestic military aircraft regardless of where the aircraft was located at the time of commission of a criminal offence, if the offender 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 to 369 and Articles 371 to 374 of this Code or referred to in Article 258 of this Code if counterfeiting refers to money that at the time of commission of the criminal offence was the legal tender in Montenegro.

Applicability of Criminal Legislation of Montenegro to a National of Montenegro who Commits a Criminal Offence Abroad

Article 136

(1) Criminal legislation of Montenegro shall also be applicable to a national of Montenegro if s/he commits abroad other criminal offence than those referred to in Article 135 of this Code, should s/he be caught in the territory of Montenegro or Serbia or extradited to the state union of Serbia and Montenegro (hereinafter referred to as: SMN).

(2) Under the terms referred to in paragraph 1 of this Article, the criminal legislation of Montenegro shall also apply for an offender who became a national of Montenegro after the commission of a criminal offence.

Applicability of Criminal Legislation of Montenegro to Foreigners who Commit a Criminal Offence Abroad

Article 137

(1) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits a criminal offence outside the territory of Montenegro against Montenegro or its national for criminal offences other than those referred to in Article 135 of this Code, should s/he be caught in the territory of Montenegro or Serbia or extradited to SMN.

(2) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits abroad, against a foreign country or a foreigner, a criminal offence punishable under the law of the

country it was committed in by an imprisonment sentence of five years or more, should s/he be caught in the territory of Montenegro but not extradited to a foreign country. Unless otherwise provided by this Code, a court of law may not in such a case impose a sentence more severe than the one provided for under the law of the country in which the criminal offence was committed.

Special Conditions for Prosecution

Article 138

(1) In the event referred to in Article 134 of this Code, where criminal proceedings has been instituted or completed in a foreign country, prosecution in Montenegro shall be taken solely upon the approval of the Supreme Public Prosecutor of Montenegro.

(2) In the event referred to in Article 134 of this Code, prosecution of a foreigner may, under the condition of reciprocity, be ceded to a foreign country.

(3) In cases referred to in Art. 136 and 137 of this Code, prosecution shall not be taken if:

- 1) an offender has completed serving a sentence adjudicated to him/her abroad;
- 2) an offender has been released abroad by a legally-binding judgment or if his/her sentence has been statute-barred or pardoned;
- 3) an appropriate security measure has been applied abroad against a mentally incapacitated offender;
- 4) under the foreign law, prosecution could be undertaken for a criminal offence upon a request of the injured party, but such a request has not been filed.

(4) In cases referred to in paragraphs 136 and 137 of this Code, prosecution shall take place solely when the criminal offence in question is also punishable under the law of the country in which the offence was committed. In the case referred to in Art. 136 and 137, paragraph 1 of this Code, when the criminal offence in question is not punishable under the law of the country in which it was committed, prosecution shall take place solely upon the approval of the Supreme Public Prosecutor.

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

Credit of Detention and of Sentence Served Abroad

Article 139

Detention, any other deprivation of liberty related to a criminal offence, deprivation of liberty during an extradition procedure, as well as the sentence served by an offender under a judgment of a foreign court, shall be credited against the sentence imposed by a national court for the same criminal offence; should the sentences be not of the same kind, such crediting shall be based on the court's appraisal.

Applicability of Law of a Member State Providing for a Criminal Offence

Article 140

(1) Criminal legislation of a member state providing for a criminal offence shall be applicable to anyone who commits in the territory of that member state a criminal offence envisaged by its criminal legislation, regardless of where the offender is tried for the offence in question.

(2) If a criminal offence envisaged by criminal legislation of a member state was committed in the territories of both member states, the law of the member state in which the offender is tried shall apply.

(3) For criminal offences envisaged by the law of a member state, when such offences were committed outside the territory of SMN or on a national ship or in a national aircraft while being outside the territory of SMN, the law of the member state in which the offender is tried shall apply.

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

DEFINITIONS

Definitions which Apply to This Code

Article 142

(1) The territory of Montenegro is deemed to embrace the land territory, sea-shore and water areas within its borders, as well as air space above it.

(2) Criminal legislation of Montenegro implies this Code, as well as all other criminal provisions contained in other laws of Montenegro.

(3) Persons in official capacity are deemed to be:

1) persons who perform official duties in state bodies;

2) elected, appointed or designated persons in a state body, a local self-government body or a person who performs on a permanent or temporary basis official duties or official functions in these bodies;

3) persons in an institution, business organization or other entity who are assigned the performance of public authorizations, who decides on rights, obligations or interests of natural and legal persons or on public interest;

4) officials also include the persons who are entrusted with performing certain official duties or affairs,

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

(4) Foreign persons in official capacity are deemed to be persons who are members of a legislative, executive or judicial authority of a foreign state, public officials or officials of an international organization and its bodies, judges and other officials of an international tribunal.

(5) Responsible persons are deemed to be owners of a business organisation or other entity, or persons within a business organisation, institution or other entity assigned with, in

consideration of his/her function, funds invested or his/her authorizations, a specific scope of affairs in the management of property, production or other trade or in supervision thereof or who is entrusted with the performance of specific affairs. Responsible persons are also deemed to be persons in official capacity, in the event of criminal offences for which a responsible person is designated as an offender, such offences being not envisaged by this Code in the Chapter dealing with criminal offences against official duties i.e. as criminal offences of a person in official capacity.

(6) Military persons are deemed to be: professional soldiers (professional officers, professional non-commissioned officers, officers under contract, non-commissioned officers under contract and soldiers under contract), soldiers serving their term of enlistment, students of a military academy, students of a military high school, persons from reserve military forces while on military duty as military conscripts, as well as civilians performing a specific military duty.

(7) When a person in official capacity, a responsible person or a military person is designated as a perpetrator of specific criminal offences, persons referred to in paragraphs 3, 5 and 6 of this Article may be perpetrators of these acts, unless the elements of an individual offence or an individual regulation implies that the offender may be solely someone of these persons.

(8) Children are deemed to be persons who have not reached the age of fourteen.

(9) Juveniles are deemed to be persons who have reached the age of fourteen, but not the age of eighteen.

(10) Underage persons are deemed to be persons who have not reached the age of eighteen.

(11) Offenders are deemed to be perpetrators, co-offenders, inciters and aiders.

(12) Force is deemed to be the use of hypnosis or overpowering agents with the purpose to bring someone against his/her will to the state of unconsciousness or inability to give resistance.

(13) Elections are deemed to be the elections for the Assembly of SMN, President of SMN, Assembly of the Republic of Montenegro, President of the Republic of Montenegro, local self-government bodies and other elections called for and conducted on the basis of the Constitution and law.

(14) Referendum is deemed to be voting of citizens where they decide on the issues specified by the Constitution and law.

(15) Narcotic drugs are deemed to be substances and preparations declared by regulations founded on law to be narcotic drugs.

(16) Movable articles are also deemed to be each generated or collected energy for production of light, heat or movement, telephone impulses, as well as a computer datum and a computer program.

(17) Computer data are deemed to be presented information, knowledge, fact, concept or order that is entered, processed or memorized, or exchanged or that have been entered, processed, memorized, or exchanged in a computer or computer network.

(18) Computer networks are deemed to be assemblies of mutually interconnected computers that communicate with each other by exchanging data.

(19) Computer programs are deemed to be sets of ordered computer data on the basis of which computers perform their function.

(20) Computer viruses are computer programs that threaten or change the function of the computer, computer data, operations of computer network, or that may compromise or modify them.

(21) Business entities are deemed to be business organisations, other legal persons that conduct business activity, as well as entrepreneurs. Legal persons that, in addition to their primary activity, also conduct a business activity, are deemed to be business entities solely when engaging in that business activity.

(22) Protected natural assets are deemed also to be assets that, under regulations on protection of natural assets, enjoy previous protection.

(23) Cultural assets are deemed also to be assets that, under regulations on protection of cultural assets, enjoy previous protection, as well as a part of cultural asset and protected environment of an immovable cultural asset.

(24) Money means both metal coins or paper money or money made of some other material that is in circulation in the member states of SMN or a foreign country under law.

(25) Value symbols are deemed to be also foreign value symbols.

(26) Motor vehicles are deemed to be every transportation means with a motor drive used in the land, water and air transportation.

(27) Documents are deemed to be any objects that are suitable for or designated to serve as an evidence of a specific fact of relevance for legal relations, as well as a computer datum.

(28) Files, letters, parcels and documents may also be in an electronic form.

(29) Families or family communities are also deemed to be former spouses, cognates and fully adopted relatives in a direct line without limitation, whereas in a collateral line ending with the fourth degree, openly adopted relatives, relatives by marriage ending with the second degree, persons who live in the same household and individuals that have a joint child or a child is on the way, although they have never lived in the same household.

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

(31) When an imperfective verb is used to designate the action of a criminal offence, it shall be deemed that the offence is committed if the action is done once or several times.

SPECIAL PART

TITLE FOURTEEN

CRIMINAL OFFENCES AGAINST LIFE AND BODY

Murder

Article 143

Anyone who deprives of life other person shall be sentenced to five to fifteen years of imprisonment.

Aggravated Murder

Article 144

Punished by an imprisonment sentence of at least ten years or a forty-year imprisonment sentence shall be anyone who:

- 1) deprives of life other person in a cruel or insidious manner,
- 2) deprives of life other person behaving in an unscrupulous and violent manner,
- 3) deprives of life other person and thereat endangers somebody else's life with guilty mind,

4) deprives of life other person out of greed, in view of commission or concealment of other criminal offence, from unscrupulous revenge or other base motives,

5) deprives of life a person in official capacity or a military person while serving or related to serving an official duty,

6) deprives of life a child or a pregnant woman,

7) deprives of life a member of his/her own family or a family community who previously molested him/her,

8) deprives of life several persons with guilty mind, such offences being not regarded as manslaughter, killing a child at birth or mercy killing.

Manslaughter

Article 145

Anyone who deprives another person of life being suddenly brought, without his/her own guilt, into the state of strong excitement by an attack, abuse or heavy insult by the murdered person, shall be sentenced to one to eight years of imprisonment.

Killing a Child at Birth

Article 146

A mother who deprives of life her child in the course of or immediately after delivery, while in the state of disorder caused by delivery, shall be sentenced to six months to five years of imprisonment.

Mercy Killing

Article 147

Anyone who deprives of life an adult person out of mercy due to his/her serious health condition, or at his/her serious and explicit request, shall be sentenced to six months to five years of imprisonment.

Negligent Manslaughter

Article 148

Anyone who deprives of life other person out of negligence, shall be sentenced to six months to five years of imprisonment.

Instigation to Suicide and Assisted Suicide

Article 149

(1) Anyone who instigates other person to suicide or assists him/her in committing suicide, and should suicide be committed or attempted, shall be sentenced to one to eight years of imprisonment.

(2) Anyone who assists other person in committing suicide under the conditions referred to in Article 147 of this Code, and should suicide be committed or attempted, shall be sentenced to three months to five years of imprisonment.

(3) Anyone who commits the act referred to in paragraph 1 of this Article against a juvenile or a person in the state of significantly reduced mental capacity, shall be sentenced to two to ten years of imprisonment.

(4) Should the act referred to in paragraph 1 of this Article be committed against a child or a mentally incapacitated person, the offender shall be sentenced under Article 144 of this Code.

(5) Anyone who treats with cruelty or inhumanity a person subordinate or dependant on him/her, and should the person in question due to such treatment, commit or attempt suicide that may be attributed to the offender's negligence, shall be sentenced to six months to five years of imprisonment.

Illegal Termination of Pregnancy

Article 150

(1) Anyone who, in breach of regulations on termination of pregnancy, carries out an abortion of a pregnant woman with her consent thereto commences with carrying out an abortion or assists a pregnant woman in termination of her pregnancy shall be sentenced to three months to three years of imprisonment.

(2) Anyone who carries out or commences with carrying out an abortion without the consent of a pregnant woman and, if she is younger than 16, without her consent and a written agreement of her parent, adoptant parent or guardian, shall be sentenced to one to eight years of imprisonment.

(3) Should it happen that, due to the acts referred to in paragraphs 1 and 2 of this Article, the woman subjected to abortion die or her health be heavily impaired or another grievous bodily injury be inflicted upon her, the offender shall be sentenced for the offence referred to in paragraph 1 of this Article to six months to six years of imprisonment and for the offence referred to in paragraph 2 of this Article to two to twelve years of imprisonment.

Grievous Bodily Injury

Article 151

(1) Anyone who inflicts grievous bodily injury to other person or impairs seriously his/her health, shall be sentenced to six months to five years of imprisonment.

(2) Anyone who inflicts grievous bodily injury to other person or impairs his/her health so seriously that the injured person's life is endangered or any vital part of his/her body destroyed or permanently or considerably damaged or weakened, or the injured person's permanent inability to work or permanent and serious impairment of his/her health or deformation is caused, shall be sentenced to one to eight years of imprisonment.

(3) Should it happen that, due to the acts referred to in paragraphs 1 and 2 of this Article, the injured person has died, the offender shall be sentenced to two to twelve years of imprisonment.

(4) Anyone who commits the act referred to in paragraphs 1 and 2 of this Article out of negligence, shall be sentenced to imprisonment not exceeding three years.

(5) Anyone who commits the act referred to in paragraphs 1 to 3 of this Article, out of passion brought into the state of strong excitement without his/her own guilt by an attack, abuse or a heavy insult by the injured, shall be sentenced to imprisonment not exceeding three years for the

act referred to in paragraph 1, three months to four years for the act referred to in paragraph 2, and six months to five years for the act referred to in paragraph 3.

Light Bodily Injury

Article 152

(1) Anyone who inflicts a light bodily injury upon other person or lightly impairs his/her health, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should such an injury be inflicted by weapons, dangerous tools or other means suitable for inflicting grievous bodily injuries or seriously impairing health, the offender shall be sentenced to imprisonment not exceeding three years.

(3) A court of law may impose a judicial admonition to the offender referred to in paragraph 2 of this Article, should s/he be provoked by rude or coarse behaviour of the injured party.

(4) Prosecution for the offence referred to in paragraph 1 of this Article shall be initiated upon a personal action at law.

Participation in an Affray

Article 153

Anyone who participates in an affray in which someone has been deprived of life or inflicted grievous bodily injury, shall be sentenced on the grounds of participation solely to three months to three years of imprisonment.

Endangerment by Dangerous Tools in Affrays or Brawls

Article 154

Anyone who, in affrays or brawls, reaches for weapons, dangerous tools or other means suitable for causing grievous bodily injuries or heavy impairment of health, shall be sentenced to a fine or imprisonment not exceeding six months.

Exposure to Danger

Article 155

(1) Anyone who leaves other person without help in a situation and under circumstances dangerous to life or health caused by him/herself, shall be sentenced to three months to three years of imprisonment.

(2) Should it happen that, due to the act referred to in paragraph 1 of this Article, the abandoned person's health be seriously impaired or other grievous bodily injury be inflicted upon him/her, the offender shall be sentenced to one to five years of imprisonment.

(3) Should, due to the act referred to in paragraph 1 of this Article, the abandoned person die, the offender shall be sentenced to one to eight years of imprisonment.

Abandonment of a Disabled Person

Article 156

(1) Anyone who leaves a disabled person entrusted to his/her custody or a disabled person s/he is normally obliged to take care of, without help in the condition and under circumstances dangerous to life or health, shall be sentenced to three months to three years of imprisonment.

(2) Should it happen that, due to the act referred to in paragraph 1 of this Article, the abandoned person's health be seriously impaired or other grievous bodily injury be inflicted upon him/her, the offender shall be sentenced to one to five years of imprisonment.

(3) Should, due to the act referred to in paragraph 1 of this Article the abandoned person die, the offender shall be sentenced to one to eight years of imprisonment.

Denial of Help

Article 157

(1) Anyone who denies to help other person in the state of an immediate danger to life though s/he could have done it with no threat to him/herself or other person, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should, due to denial of help, the health of a person in the state of an immediate danger to life be seriously impaired or other grievous bodily injury be inflicted upon such a person, the offender shall be sentenced to a fine or imprisonment not exceeding two years.

(3) Should it happen that, due to denial of help, the person in the state of an immediate danger to life die, the offender shall be sentenced to three months to three years of imprisonment.

TITLE FIFTEEN

**CRIMINAL OFFENCES AGAINST FREEDOMS AND RIGHTS OF
INDIVIDUALS AND CITIZENS**

Infringement 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 minority national and ethnic groups living in SMN denies or restricts to citizens the use of their mother tongue or alphabet when exercising their rights or addressing authorities or organizations, shall be sentenced to a fine or imprisonment not exceeding one year.

Infringement of Equality

Article 159

(1) Anyone who, due to national affiliation or affiliation to an ethnic group, race or confession, or due to absence of such an affiliation or due to differences in political or other beliefs, sex, language, education, social status, social origin, financial standing or other personal capacity denies or restricts to another the rights of individuals and citizens provided for by the Constitution, laws or other regulations or general acts or ratified international treaties or, on the grounds of such differences, grants privileges or exemptions, shall be sentenced to imprisonment not exceeding three years.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity while performing his/her duties, s/he shall be sentenced to three months to five years of imprisonment.

Infringement of the Right to Expression of National or Ethnic Affiliation

Article 160

(1) Anyone who prevents other persons to express their national or ethnic affiliation or culture, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on every person who coerces other person to declare his/her national or ethnic affiliation.

(3) Should the act referred to in paragraphs 1 and 2 of this Article be committed by a person in official capacity during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Infringement of Freedom of Worship and Performance of Religious Rites

Article 161

(1) Anyone who prevents or restricts freedom of confession or worship, shall be sentenced to a fine or imprisonment not exceeding two years.

(2) Sentenced to the sentence referred to in paragraph 1 of this Article shall also be anyone who prevents or obstructs performance of religious rites.

(3) Anyone who coerces others to declare their religious beliefs shall be sentenced to a fine or imprisonment not exceeding one year.

(4) A person in official capacity who commits the act referred to in paragraphs 1 to 3 of this Article shall be sentenced to imprisonment not exceeding three years.

Unlawful Deprivation of Liberty

Article 162

(1) Anyone who unlawfully incarcerates, keeps in custody or in any other manner unlawfully deprives others of liberty or limits their freedom of movement, shall be sentenced to imprisonment not exceeding one year.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity through abuse of his/her position or authorizations, s/he shall be sentenced to imprisonment of six months to five years.

(3) Should the act of unlawful deprivation of liberty last longer than thirty days, or should it be conducted in a cruel manner, or should the health of a person unlawfully deprived of liberty in that manner be seriously impaired or other serious consequences occur, the offender shall be sentenced to one to eight years of imprisonment.

(4) Should it happen that, due to the acts referred to in paragraphs 1 and 3 of this Article, a person unlawfully deprived of liberty dies, the offender shall be sentenced to two to twelve years of imprisonment.

(5) An attempted offence as of paragraph 1 of this Article shall be punished.

Infringement of Freedom of Movement and Residence

Article 163

(1) Anyone who unlawfully denies or restricts freedom of movement or residence in the territory of SMN to a citizen of Montenegro, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding 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 material benefit from that person or others or coercing that person or others to do or not to do something or to endure something, shall be sentenced to one to eight years of imprisonment.

(2) Anyone who, in view of accomplishing the aim of abduction, threatens by murder or grievous bodily injury to the kidnapped person, shall be sentenced to two to ten years of imprisonment.

(3) Should the kidnapped person be kept more than ten days or treated with cruelty or should the kidnapped person's health be heavily impaired or other serious consequences occur, or should the offence referred to in paragraph 1 of this Article be committed against a juvenile, the offender shall be sentenced to two to twelve years of imprisonment.

(4) Should it happen that, due to the acts referred to in paragraphs 1, 2 and 3 of this Article, the kidnapped person dies or should the act be committed by several persons in an organized manner, the offender shall be sentenced to five to fifteen years of imprisonment.

Coercion

Article 165

(1) Anyone who by use of force or threat compels someone to do or not to do something or to endure something, shall be sentenced to three months to three years of imprisonment.

(2) Anyone who commits the act referred to in paragraph 1 of this Article in a cruel manner or by threat of murder or grievous bodily injury or abduction, shall be sentenced to six months to five years of imprisonment.

(3) Should it happen that, due to the acts referred to in paragraphs 1 and 2 of this Article, a grievous bodily injury be inflicted or other serious consequences occur, the offender shall be sentenced to one to eight years of imprisonment.

(4) Should it happen that, due to the acts referred to in paragraphs 1 and 2 of this Article, the person under coercion die, or should the act be committed by several persons in an organized manner, the offender shall be sentenced to two to twelve years of imprisonment.

Extortion of Testimony

Article 166

(1) A person in official capacity who, during performance of his/her duties, 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 sentenced to three months to five years of imprisonment.

(2) Should the extortion of testimony or statement be accompanied by heavy violence, or should extremely serious consequences occur for an accused in the criminal proceedings due to extorted testimony, the offender shall be sentenced to two to ten years of imprisonment.

Torture and Ill-treatment

Article 167

(1) Anyone who uses force, threat or another impermissible manner to inflict great pain or suffering to another in order to obtain from him/her or a third party a confession, statement or other notification or in order to intimidate or unlawfully punish him/her or a third party, or does so from other motives based on any form of discrimination, shall be punished by an imprisonment from six months to five years.

(2) Anyone who ill-treats another or treats him/her in the manner offending human dignity, shall be punished by a fine or imprisonment not exceeding one year.

(3) Should the act referred to in paragraphs 1 and 2 of this Article be committed by a person in official capacity during performance of his/her duties, that person shall be sentenced for the offence referred to in paragraph 1 to imprisonment from one to eight years and for the offence referred to in paragraph 2 to imprisonment from three months to three years.

Endangering Safety

Article 168

(1) Anyone who endangers the safety of other person by threatening to attack his/her life or body or a person close to him, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Anyone who commits the act referred to in paragraph 1 of this Article against more than one person, or the act that has caused anxiety of citizens or other serious consequences, shall be punished by three months to three years of imprisonment.

Infringement of Inviolability of Dwelling

Article 169

(1) Anyone who enters without authorisation somebody else's dwelling or closed premises or does not leave that dwelling or premises upon the request of an authorized person, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

(3) An attempted offence as of paragraphs 1 and 2 of this Article shall be punished.

Illegal Search

Article 170

A person in an official capacity who, during performance of his/her duties, conducts the search of dwellings, premises, or persons illegally, shall be sentenced to imprisonment not exceeding three years.

Unauthorized Disclosure of Secret

Article 171

(1) An attorney-at-law, a physician or other person who discloses without permission a secret that has come to his/her knowledge during performance of his/her professional duties, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) No person who discloses a secret in a public or in other person's interest, being preponderant to the interest of keeping secret, shall be punished for the act referred to in paragraph 1 of this Article.

Infringement of Privacy of Mail and Other Parcels

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 infringes the privacy of electronic mail, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person who communicates to other the contents s/he has come to the knowledge of by infringement 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) Should the act referred to in paragraphs 1 and 2 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Unauthorized Wiretapping and Recording

Article 173

(1) Anyone who without authorization wiretaps by special devices or who records a conversation, statement or any other information not intended for his/her use, shall be punished by a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person who enables an unknown person to be informed about the conversation, statement or other information wiretapped i.e. audio recorded without authorization.

(3) Should the act referred to in paragraphs 1 and 2 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding 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 his/her 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 sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

**Unauthorized Publication and Presentation of Somebody Else'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 sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Unauthorized Collection of Personal Data

Article 176

(1) Anyone who provides to another without authorization, communicates to others or uses for purposes other than those for which they were compiled personal data that are collected, processed and utilized under law, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person who, in breach of law, collects personal data or utilizes so collected data.

(3) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Infringement of the Right to Lodge a Legal Remedy

Article 177

(1) Anyone who prevents others to exercise the right to file an application, information, action, lodge a complaint, objection or other legal remedy, as well as other petition, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years.

Infringement of Freedom of Speech and Public Appearance

Article 178

(1) Anyone who denies or restricts freedom of speech or public appearance of other person in an unlawful manner, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding 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 sentenced to a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person who prevents or obstructs, without authorisation, the broadcasting of radio or television programs.

(3) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years

Prevention of Publication of Responses and Correction Notices

Article 180

Anyone who, in breach of a legally-binding 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 someone's rights or interests, shall be sentenced to a fine or imprisonment not exceeding one year.

Prevention of Public Gatherings

Article 181

(1) Anyone who, by use of force, threat, deception or in other manner prevents or obstructs a public gathering organized in compliance with law, shall be sentenced to a fine or imprisonment not exceeding one year.

(2) Should the act referred to in paragraph 1 of this Article be committed by a person in official capacity, during performance of duty, that person shall be sentenced to imprisonment not exceeding three years.

Prevention of Political, Trade Union or Other Association and Activities

Article 182

Anyone who by violating law knowingly or in any other unlawful manner prevents or obstructs political, trade union or other association or activities of citizens or activities of their political, trade union or other organizations shall be sentenced to a fine or imprisonment not exceeding one year.

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

Article 183

Prosecution for offences referred to in Article 169, paragraph 1, 172, paragraphs 1 and 2, 173, paragraphs 1 and 2, 174, paragraph 1, 175, paragraph 1, 176, paragraphs 1 and 2 and 177, paragraph 1 of this Code, shall be conducted upon a personal action at law.

TITLE SIXTEEN

CRIMINAL OFFENCES AGAINST ELECTORAL RIGHTS

Infringement of the Right to be Elected

Article 184

Anyone who violates law or in any other unlawful manner prevents or obstructs a person to stand for election, shall be punished by a fine or imprisonment sentence not exceeding one year.

Infringement of the Voting Right

Article 185

(1) Anyone who with the intention to prevent another person from exercising his/her voting right, unlawfully fails to register that person in voters' register or erases his/her name from that register or in any other unlawful manner prevents or obstructs a person to cast a vote, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on anyone who unlawfully registers in voters' register someone so as to enable him/her to cast a vote, or enables him/her to cast a vote in any other unlawful manner if s/he is not entitled to such a right.

Infringement of Freedom of Choice in Voting

Article 186

(1) Anyone who uses force, threat, or any other unlawful manner to coerce another or influence a person to vote or not to vote at elections or at a referendum in favour of or against a particular candidate, voting register or proposal, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on anyone who requires or accepts a present or some other benefit for him/herself or for another in order to vote or not to vote in favour or against a particular person.

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

(4) Where an offence referred to in paragraphs 1 and 2 of this Article was committed by a member of the polling board or some other person performing duties related to voting, s/he shall be punished by an imprisonment sentence not exceeding three years.

(5) Anyone who after the elections or a referendum, invites a voter to assume responsibility in relation to voting or requires him/her to state who s/he voted for, why he did or did not vote, shall be punished by a fine or imprisonment sentence not exceeding one year.

Abuse of the Right to Vote

Article 187

(1) Anyone who at elections or at a referendum votes instead of another person under his/her name or at the same elections votes more than once or uses more than one ballot paper, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) A member of the polling board who enables another to commit an act referred to in paragraph 1 of this Article shall be punished by a fine or a two year imprisonment sentence.

Composing Inaccurate Voters' Registers

Article 188

Anyone who with the intention to influence the results of elections or at a referendum composes an inaccurate voters' register, shall be punished by a fine or imprisonment sentence not exceeding three years.

Obstructing Elections

Article 189

(1) Anyone who by force, threat or in any other unlawful manner prevents or obstructs elections at a polling station shall be punished by an imprisonment sentence not exceeding three years.

(2) Anyone who obstructs voting by causing disorder at the polling station, due to which the voting is interrupted, shall be punished by a fine or imprisonment sentence not exceeding two years.

Preventing the Monitoring of Voting

Article 190

Members of an election conducting authority who prevent or obstruct monitoring of the course of voting or determining of the voting results by a person entitled to such a right under law or on the basis of a decision of the competent state body, shall be punished by a fine or imprisonment sentence not exceeding one year.

Infringement of the Secrecy of Voting

Article 191

(1) Anyone who at elections or at a referendum violates the secrecy of voting, shall be punished by a fine or imprisonment sentence not exceeding six months.

(2) Where an offence referred to in paragraph 1 of this Article was committed by a member of the polling board or some other person performing duties related to voting, s/he shall be punished by a fine or imprisonment sentence not exceeding two years.

Falsifying the Results of Voting

Article 192

Members of an election or referendum conducting authority or other persons performing duties related to voting, who by adding or taking away ballot papers or votes upon counting, or in some other manner alter the number of ballot papers or votes or declare untrue result of voting, shall be punished by a fine or up to three years of imprisonment sentence.

Destroying Documentation on Voting

Article 193

(1) Anyone who destroys, damages, takes away or conceals a ballot paper or some other document on voting at elections or at a referendum, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed by a member of the polling board or some other person performing her/his duty related to voting, s/he shall be punished by an imprisonment sentence of three months to three years.

Grave Offences against Electoral Rights

Article 194

(1) Should it happen that, due to the acts referred to in Art. 185, 186, 187, 189, 190, 191, 192 and 193 of this Code public law and order are disturbed or property the value of which exceeds the amount of twenty thousand euro imperilled, or lives of a number of people endangered, the offender shall be punished by an imprisonment sentence of six months to five years.

(2) If acts referred to in Art. 185, 186, 187, 189, 190, 191, 192 and 193 of this Code resulted in the occurrence of a grievous bodily injury or property damage exceeding the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence ranging from one to ten years.

(3) If acts referred to in Art. 185, 186, 187, 189, 190, 191, 192 and 193 of this Code resulted in death of one or more persons, the offender shall be punished by a minimum three year imprisonment sentence.

TITLE SEVENTEEN

CRIMINAL OFFENCES AGAINST HONOUR AND REPUTATION

Insult

Article 195

(1) Anyone who insults other person shall be punished by a fine in the amount of one thousand two hundred euro to four thousand euro.

(2) Where an offence referred to in paragraph 1 of this Article was performed through media or other similar means or at some public gathering, the offender shall be punished by a fine in the amount of three thousand euro to ten thousand euro.

(3) If the insulted person returned the insult, the court may punish or remit of penalty both sides or one side only.

(4) A perpetrator who commits an act referred to in paragraphs 1 to 3 of this Article shall not be punished if the statement was given within the limits of a serious criticism in a scientific, literary or artistic work, performance of an official duty, or journalistic profession, political activity, or to defend a right or protect justifiable interests, if the manner in which the statement is expressed or other circumstances indicate it was not done with the intention to discredit a person.

Defamation

Article 196

(1) Anyone who states or transmits untrue information about someone that may harm his/her honour and reputation shall be punished by a fine in the amount of three thousand euro to ten thousand euro.

(2) Where an offence referred to in paragraph 1 of this Article is performed through media or other similar means or at a public gathering, the offender shall be punished by a fine in the amount of five thousand euro to fourteen thousand euro.

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

(4) If the accused proves to have had well-founded reasons to believe in truthfulness of what s/he stated or transmitted, s/he shall not be punished for defamation, but s/he may be punished for insult (Article 195), if the conditions for the existence of such an act have been met.

Spreading Information about Private and Family Life

Article 197

(1) Anyone who states or transmits information about personal or family life of a person and thereby potentially harms his/her honour or reputation, shall be punished by a fine in the amount of three thousand euro to ten thousand euro.

(2) Where an offence referred to in paragraph 1 of this Article is performed through media or other similar means or at a public gathering, the offender shall be punished by a fine in the amount of five thousand euro to fourteen thousand euro.

(3) If what is being stated or transmitted has entailed or could have entailed serious consequences for the injured party,

the offender shall be punished by a fine in the minimum amount of eight thousand euro.

(4) The person who has said or transmitted information about personal or family life while performing an official duty, journalistic profession, defending a right or protecting justified interest, shall not be punished provided s/he proves that the information is true or that s/he had well-founded reasons to believe that the information s/he stated or transmitted was true.

(5) The truthfulness or untruthfulness of what is being stated or transmitted related to personal or family life of a person shall not liable to any evidence obtaining procedure, except in cases referred to in paragraph 4 of this Article.

Injury to Reputation of SMN and of a Member State

Article 198

Anyone who publicly exposes SMN or one of its member states, its flag, coat of arms or anthem to mockery, shall be punished by a fine in the amount of three thousand euro to ten thousand euro.

Injury to Reputation of Nations, National and Ethnic Groups of SMN

Article 199

Anyone who publicly exposes a nation, national or ethnic group living in SMN to mockery, shall be punished by a fine in the amount of three thousand euro to ten thousand euro.

Injury to Reputation of Foreign States or International Organizations

Article 200

(1) Anyone who publicly exposes to mockery a foreign state with which SMN has diplomatic relations, its flag, coat of arms or its anthem, shall be punished by a fine in the amount of three thousand to ten thousand euro.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on the person who publicly exposes to mockery the United Nations Organization, International Red Cross or some other international organization of which SMN or Montenegro is a member.

Impunity for Criminal Offences Referred to in Art. 198 to 200

Article 201

Perpetrator of an act referred to in Art. 198 to 200 of this Code shall not be punished if the statement has been given within the limits of a serious criticism in a scientific, literary or artistic work, or while performing an official duty, journalistic profession, political activity, defence of a right or protection of justifiable interests, provided that the manner of expression or other circumstances prove that s/he has not done it with the intention of discrediting or if s/he proves the truthfulness of his/her claims or that s/he had well-founded reason to believe in the veracity of what s/he was stating or transmitting.

Prosecution for Offences against Honour and Reputation

Article 202

(1) Prosecution For offences referred to in Articles 195 to 197 of this Code shall be undertaken upon a personal action at law.

(2) If the offences referred to in Articles 195 to 197 of this Code were committed against a deceased person, prosecution shall be undertaken upon a personal action at law of his/her spouse or person who lived with the deceased in a durable customary marriage, a direct relative, adoptant parent, adopted child, brother or sister of the deceased person.

(3) Prosecution for an offence referred to in Article 200 of this Code shall be undertaken upon the approval of the Supreme Public Prosecutor of Montenegro.

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

Article 203

When pronouncing a sentence For offences referred to in Articles 195 to 197 of this Code committed through media or similar means or at a public gathering, the court may, upon the request of the prosecutor, decide to publicize the judicial decision in its entirety or as an excerpt through the same medium and at the expense of the convicted person.

**TITLE EIGHTEEN
CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM**

Rape

Article 204

(1) Anyone who forces another person to sexual intercourse or an act equal to it by using force or threat to attack the life or body of that or some other person, shall be punished by an imprisonment sentence of two to ten years.

(2) Where an offence referred to in paragraph 1 of this Article was committed under threat of revealing something about that person or another person that would harm their honour or reputation or by threat of some other grave wrong, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Where through offences referred to in paragraphs 1 and 2 of this Article a grievous bodily injury is inflicted on a person, or if the offence was committed by several persons in an especially cruel or especially degrading manner, or against a juvenile, or the consequence of the act is pregnancy, the offender shall be punished by an imprisonment sentence of three to fifteen years.

(4) Where through offences referred to in paragraphs 1 and 2 of this Article a person against whom the offence was committed has died or if the offence was committed against a child, the offender shall be punished by an imprisonment sentence of five to eighteen years.

Sexual Intercourse with a Helpless Person

Article 205

(1) Anyone who performs sexual intercourse or an equal act taking advantage of a person's mental illness, arrested mental development or other mental alienation, helplessness or some other state of that person due to which s/he is not capable of resistance, shall be punished by an imprisonment sentence of one to ten years.

(2) Where through offences referred to in paragraph 1 of this Article a grievous bodily injury is inflicted on a helpless person or if the offence was committed by several persons or in an especially cruel or degrading manner or it is committed against a juvenile or the act resulted in pregnancy, the offender shall be punished by an imprisonment sentence of two to twelve years.

(3) Where through an offence referred to in paragraphs 1 and 2 of this Article a person suffering the act died or if the act was committed against a child, the offender shall be punished by an imprisonment sentence of five to eighteen years.

Sexual Intercourse with a Child

Article 206

(1) Anyone who performs sexual intercourse or an equal act with a child shall be punished by an imprisonment sentence of one to ten years.

(2) Where through an offence referred to in paragraph 1 of this Article a grievous bodily injury is inflicted to a child against whom the act was committed, or if the offence was committed by several persons or it resulted in pregnancy, the offender shall be punished by an imprisonment sentence of two to twelve years.

(3) Where through offences referred to in paragraphs 1 and 2 of this Article a child died, the offender shall be punished by an imprisonment sentence of five to eighteen years.

(4) The perpetrator of an act referred to in paragraph 1 of this Article shall not be punished provided that there exists no larger difference between the offender and the child in respect to their mental and physical development.

Sexual Intercourse by Abuse of Position

Article 207

(1) Anyone who by abuse of his/her position instigates to sexual intercourse or an equal act a person who is in a subordinate or dependent position to him/her, s/he shall be punished by an imprisonment sentence of three months to three years.

(2) A teacher, instructor, guardian, adoptant parent, parent, stepfather, stepmother or some other person who by abuse of his/her position or authorizations performs sexual intercourse or an equal act with a juvenile entrusted to him/her for teaching, education, care and attendance, shall be punished by an imprisonment sentence of one to ten years.

(3) Where an offence referred to in paragraph 2 of this Article was committed against a child, the offender shall be punished by an imprisonment sentence of two to twelve years.

(4) Where an offence referred to in paragraphs 1 to 3 of this Article resulted in pregnancy, the offender shall be punished For offences referred to in paragraph 1 by an imprisonment sentence of six months to five years, For offences referred to in paragraph 2 by an imprisonment sentence of two to twelve years, and For offences referred to in paragraph 3 by an imprisonment sentence of three to fifteen years.

(5) Where through an offence referred to in paragraph 3 of this Article a child died, the offender shall be punished by an imprisonment sentence of five to eighteen years.

Prohibited Sexual Acts

Article 208

(1) Anyone who under the conditions referred to Article 204, paragraphs 1 and 2, Article 205, paragraphs 1 and 2, Article 206 paragraph 1 and Article 207, paragraphs 1 to 3 of this Code, performs some other sexual act, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) Where through offences referred to in paragraph 1 of this Article a grievous bodily injury is inflicted to a person, or if the offence was committed by several persons or in an extremely cruel or degrading manner or against a child, the offender shall be punished by an imprisonment sentence of two to ten years.

(3) Where through an offence referred to in paragraph 1 of this Article a person against whom the offence was committed has died, the offender shall be punished by an imprisonment sentence of three to fifteen years.

Pimping and Enabling having a Sexual Intercourse

Article 209

(1) Anyone who procures a juvenile for sexual intercourse, an act equal to it or some other sexual act, shall be punished by an imprisonment sentence of three months to five years.

(2) Anyone who provides for performing sexual intercourse, an act equal to it or some other sexual act to a juvenile, shall be punished by an imprisonment sentence not exceeding three years.

Mediation in Prostitution

Article 210

(1) Anyone who instigates or incites another person to prostitution or participates in handing over a person to another person in view of prostitution or who by means of media and other similar means promotes or advertises prostitution, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed against a juvenile, the offender shall be punished by an imprisonment sentence of one to ten years.

Displaying Pornographic Material

Article 211

(1) Anyone who sells or displays to a child or by public displaying or in some other manner makes available text, pictures, audio-visual or other objects of pornographic content or displays to it a pornographic show, shall be punished by a fine or an imprisonment sentence not exceeding six months.

(2) Anyone who uses a child to produce pictures, audio-visual or other objects of pornographic content or for a pornographic show, shall be punished by an imprisonment sentence of six months to five years.

(3) Anyone who sells, shows, publicly exhibits or in electronic or some other manner makes available pictures, audio-visual or other objects of pornographic content resulting from acts referred

to in paragraph 2 of this Article shall be punished by an imprisonment sentence not exceeding two years.

(4) Objects referred to in paragraphs 1 to 3 of this Article shall be seized and destroyed.

Prosecution for Criminal Offences against Sexual Freedom

Article 212

Prosecution for criminal offences referred to in Articles 204 and 205 of this Code committed against a spouse shall be taken upon a personal action at law.

TITLE NINETEEN

CRIMINAL OFFENCES AGAINST MARRIAGE AND FAMILY

Bigamy

Article 213

(1) Anyone who concludes a new marriage although s/he is already married shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on anyone who marries a person whom s/he knows to be married.

Concluding a Void Marriage

Article 214

(1) Anyone who concluding a marriage conceals from the other party a fact due to which the marriage becomes void or misleads or keeps the other party misled on that fact, shall be punished by an imprisonment sentence of three months to three years.

(2) Prosecution may be undertaken only if the marriage thus concluded is declared void for reasons referred to in paragraph 1 of this Article.

Enabling of an Unlawful Marriage

Article 215

A person in official capacity authorized to conclude a marriage who within performance of his/her official duty knowingly allows marriage which is under law forbidden or void, shall be punished by an imprisonment sentence of three months to three years.

Customary Marriage with a Juvenile

Article 216

(1) An adult person who lives in an customary marriage with a juvenile, shall be punished by an imprisonment sentence of three months to three years.

(2) A parent, adoptant parent or a guardian who enables a minor to live in a customary marriage with another person or instigates him/her into it shall be punished by the sentence referred to in paragraph 1 of this Article.

(3) Where an offence referred to in paragraph 2 of this Article was committed for gain, the offender shall be punished by an imprisonment sentence of six months to five years.

(4) If a marriage is concluded, prosecution shall not be undertaken, and if it was undertaken, it shall be discontinued.

Deprivation of a Juvenile

Article 217

(1) Anyone who unlawfully keeps or deprives a juvenile from his/her parents, adoptant parent, guardian, other person or an institution, s/he has been entrusted with, or prevents enforcement of the decision entrusting a juvenile with a particular person, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) Anyone who prevents enforcement of a decision of a competent body stipulating the manner of maintaining personal relations between a juvenile and his/her parent or another relative, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(3) Where an offence referred to in paragraph 1 of this Article was committed for gain or other base motives or if health, upbringing or education of the juvenile are seriously endangered as its result, the offender shall be punished by an imprisonment sentence of three months to five years.

(4) Perpetrator of acts referred to in paragraphs 1 and 3 of this Article who voluntarily delivers a juvenile to a person or an institution s/he has been entrusted with or enables the enforcement of the decision on entrusting a minor, may be remitted of penalty by a court of law.

(5) If a suspended sentence is imposed for offences referred to in paragraphs 1 to 3 of this Article, the court may impose an obligation on the offender to deliver the juvenile within the specified time limit to the person or an institution the juvenile is entrusted with or to enable enforcement of the decision on entrusting a juvenile to a person or an institution, or the decision stipulating the manner of maintaining personal relations between the juvenile and his/her parent or another relative.

Changing the Family Status

Article 218

(1) Anyone who changes the family status of a child by means of a set up, substitution or in some other manner, shall be punished by an imprisonment sentence ranging from three months to three years.

(2) Anyone who, out of negligence, changes the family status of a child by substitution or in some other manner, shall be punished by an imprisonment sentence not exceeding one year.

(3) An attempted offence as of paragraph 1 of this Article shall be punished.

Neglecting or Abusing a Juvenile

Article 219

(1) Parents, adoptant parents, guardians or any other persons who by gross disregard neglect a juvenile they are obliged to take care of and educate, shall be punished by an imprisonment sentence not exceeding three years.

(2) Parents, adoptant parents, guardians or other persons who abuse a juvenile or coerce him/her to excessive labour or labour not suited to his/her age or to mendicity or for gain instigates him/her into doing other acts detrimental for his/her development, shall be punished by an imprisonment sentence of three months to five years.

Violence in a Family or a Family Community

Article 220

(1) Anyone who by use of violence endangers the physical or mental integrity of a member of his/her family or family community shall be punished by a fine or imprisonment not exceeding one year.

(2) Where in the commission of an act referred to in paragraph 1 of this Article any weapons, dangerous tools or other means suitable for inflicting grievous bodily injuries or for seriously impairing health were used, the offender shall be sentenced to imprisonment of three months to three years.

(3) Where due to acts referred to in paragraphs 1 and 2 of this Article, a grievous bodily injury is inflicted or health is seriously impaired or if such acts have been committed against a juvenile, the offender shall be sentenced to imprisonment of one to five years.

(4) Where due to acts referred to in paragraphs 1, 2 and 3 of this Article, death of a member of a family or a family community has been caused, the offender shall be sentenced to imprisonment of three to twelve years.

(5) Whoever violates the measures of protection against domestic violence imposed by the court under law, shall be punished by a fine or imprisonment not exceeding six months.

Failure to Maintain

Article 221

(1) Anyone who does not give maintenance for a person they are obliged to maintain under law, the duty being laid down by an enforceable judicial decision or executive settlement before a court of law or other competent body, to the amount and in the manner determined by the decision or the settlement, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) A perpetrator of an act referred to in paragraph 1 of this Article shall not be punished if s/he did not give maintenance for justified reasons.

(3) Where due to acts referred to in paragraph 1 of this Article grave consequences for the person maintained occurred, the offender shall be punished by an imprisonment sentence of three months to three years.

(4) If the court imposes a suspended sentence, it may impose an obligation on the offender to settle the due obligations and to pay for the maintenance regularly.

Violation of Family Obligations

Article 222

(1) Anyone who violates family obligations laid down under law and thereby leaves a family member in a difficult position where s/he is not capable of taking care of him/herself, shall be punished by an imprisonment sentence of three months to three years.

(2) Where through offences referred to in paragraph 1 of this Article the health of a family member is severely impaired, the offender shall be punished by an imprisonment sentence of one to five years.

(3) Where through offences referred to in paragraph 1 of this Article, a family member died, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) If a suspended sentence is imposed by a court of law For offences referred to in paragraphs 1 and 2 of this Article, it may impose an obligation on the offender to perform his/her family duties determined by law.

Incest

Article 223

An adult person who performs a sexual intercourse or an equal act with a juvenile direct blood relative, or with a juvenile brother or sister, shall be punished by an imprisonment sentence not exceeding three years.

TITLE TWENTY

CRIMINAL OFFENCES AGAINST LABOR RIGHTS

Infringement of Labour Rights

Article 224

Anyone who knowingly fails to adhere to laws or other regulations, collective agreements and other general acts on labour rights and on special protection of youth, women and disabled persons at work, and thereby deprives another person or restricts the right vested in him/her, shall be punished by a fine or an imprisonment sentence not exceeding two years.

Infringement of Equality in Employment

Article 225

Anyone who knowingly violates regulations or in another unlawful manner deprives a citizen of the right to be freely employed under equal conditions in the territory of Montenegro, or restricts this right, shall be punished by a fine or an imprisonment sentence not exceeding one year.

Infringement of the Right to Manage

Article 226

(1) Anyone who by force, threat, knowing violation of regulations or in any other unlawful manner prevents or obstructs decision making of managing bodies, or a member of managing bodies to participate in the work and decision making process in that body, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed by a person in official capacity or a responsible person through abuse of his/her position or authorizations, s/he shall be punished by a fine or an imprisonment sentence not exceeding two years.

Infringement of the Right to go on Strike

Article 227

(1) Anyone who uses force, threat or any other unlawful manner to prevent or obstruct employees from going on strike, participate in a strike or exercise their right to go on strike, in compliance with law, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on an employer or a responsible person who lays off one or more employees on the grounds of taking part in a strike organized in compliance with the law or institutes against them other measures violating their labor rights.

Abuse of the Right to go on Strike

Article 228

Anyone who organizes or leads a strike in a manner in breach of law or other regulations and thereby endangers human life and health or property the value of which exceeds the amount of twenty thousand euro, or if that leaves other grave consequences, unless elements of some other criminal offence have been satisfied thereby, shall be punished by an imprisonment sentence not exceeding three years.

Infringement of the Rights Stemming from Social Security

Article 229

Anyone who knowingly fails to adhere to laws or other regulations or general acts pertinent to social security and thereby deprives a person of the right s/he vested in, or restricts this right, shall be punished by a fine or an imprisonment sentence not exceeding two years.

Abuse of the Right Stemming from Social Security

Article 230

Anyone who simulates or inflicts him/herself an illness or disability for work or performs any other unlawful act to become eligible to a social security right s/he is not vested in according to law or other regulations or general acts, s/he shall be punished by a fine or an imprisonment sentence not exceeding one year.

Infringement of the Rights Pertinent to Temporary Unemployment

Article 231

Anyone who knowingly fails to adhere to laws or other regulations or general acts on the rights of citizens pertinent to temporary unemployment and thereby deprives other persons of the

right they are vested in or restricts this right to them, shall be punished by a fine or an imprisonment sentence not exceeding two years.

Failure to Take Protection Measures at Work

Article 232

(1) A person responsible for taking protection measures at work who knowingly fails to adhere to laws or other regulations or general acts on measures for protection at work, due to which life or health of workers may be endangered, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) If a suspended sentence is imposed, the court of law may oblige the offender to act in compliance with the measures for protection at work 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/her own name or in the name of another person wholly or partially publicizes, 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 an imprisonment sentence not exceeding 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 an imprisonment sentence not exceeding 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 an imprisonment sentence not exceeding six months.

(4) Objects of the criminal offence and objects that were used for or intended for the commission of a criminal offence referred to in paragraphs 1 to 3 of this Article shall be seized and objects of the criminal offence shall be destroyed.

(5) Prosecution for an offence referred to in paragraph 3 of this Article shall be undertaken upon a personal action at law.

Unauthorized Use of Copyrighted Works or Objects of Related Rights

Article 234

(1) Whoever publicizes, records, duplicates or otherwise publicly discloses or makes available, in whole or in part, a copyrighted work, performance, phonogram, videogram, show, computer program or database, shall be punished by an imprisonment sentence not exceeding three years.

(2) The sentence referred to in paragraph 1 of this Article shall also imposed on anyone who releases into circulation, or with the intention of releasing into circulation, keeps unauthorizedly duplicated or unauthorizedly released into circulation copies of copyrighted works, performances, phonograms, videograms, shows, computer programs or databases.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article, was committed with the intention of acquiring material benefit for him/herself or another, the offender shall be punished by an imprisonment sentence from three months to five years.

(4) Objects of the criminal offence and objects that were used for or intended for the commission of the criminal offence referred to in paragraphs 1 and 2 of this Article shall be seized, and objects of the criminal offence shall be destroyed.

Unauthorized Circumvention of Protection Measures Intended for the Prevention of Violations of Copyright and Related Rights and Information on the Right

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 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 imprisonment not exceeding three years.

(2) Objects of the criminal offence and objects that were used for or intended for the commission of criminal offence referred to in paragraph 1 of this Article shall be seized, and objects of the criminal offence shall be destroyed.

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

Article 236

(1) Whoever without authorization removes or alters an 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 an electronic information on the rights was unauthorizedly removed or modified, shall be punished by fine or imprisonment sentence not exceeding three years.

(2) Objects of the criminal offence and objects that were used for or intended for the commission of criminal offences referred to in paragraph 1 of this Article shall be seized, and objects of the criminal offence shall be destroyed.

Unauthorized Use of Someone Else's Patent

Article 237

(1) Anyone who unauthorizedly 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 fine or imprisonment sentence not exceeding three years.

(2) Where material benefit was obtained through an offence referred to in paragraph 1 of this Article or damage caused in an amount that exceeds thirty thousand euro, the offender shall be punished by an imprisonment from one to eight years.

(3) Whoever unauthorizedly 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 imprisonment sentence not exceeding two years.

(4) Whoever unauthorizedly files a patent application or does not indicate the inventor in the application or indicates him/her falsely, shall be punished by an imprisonment sentence from six months to five years.

(5) Objects of the criminal offence and objects that were used for or intended for the commission of a criminal offence referred to paragraphs 1 and 3 of this Article shall be seized and objects of the criminal offence shall be destroyed.

Unauthorized Use of Someone Else's Design

Article 238

(1) Whoever unauthorizedly uses, wholly or in part, someone else's registered or protected product design on their traded product, shall be punished by a fine or imprisonment sentence not exceeding three years.

(2) Whoever unauthorizedly publicizes or otherwise makes available to the public the subject matter of an application of someone else's design before it was publicized in the manner laid down by law, shall be punished by a fine or imprisonment sentence not exceeding one year.

(3) Objects of the criminal offence and objects that were used for or intended for the commission of criminal offences referred to in paragraph 1 of this Article shall be seized, and objects of the criminal offence shall be destroyed.

**TITLE TWENTY TWO
CRIMINAL OFFENCES AGAINST PROPERTY**

Theft

Article 239

(1) Anyone who deprives another of his/her movable article with intention to obtain for himself/herself or for another person unlawful material benefit through its appropriation, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) An attempted offence as of paragraph 1 of this Article shall be punished.

Aggravated Theft

Article 240

(1) A person who committed an act of theft (Article 239) shall be punished by an imprisonment sentence of one to eight years if the theft was committed:

1) by breaking open or breaking and entering closed buildings, rooms, safes, wardrobes or other closed spaces, or by overcoming major hindrances to reach that object;

2) by several persons;

3) in a particularly dangerous or particularly impudent manner;

4) by a person who had weapon or dangerous tool for attack or defense;

5) during a fire, flood, earthquake or other fatal accident;

6) by taking advantage of helplessness or other especially grievous condition of a person.

(2) If the value of stolen things exceeds the amount of three thousand euro or a stolen thing represents a cultural or natural asset, the perpetrator of the act of theft shall also be punished by a sentence referred to in paragraph 1 of this Article.

(3) If the value of stolen things exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Robbery

Article 241

(1) Anyone who is caught committing a theft, and uses force against a person or threats to attack immediately the life or body of a person, with the intention to keep the stolen thing, shall be punished by an imprisonment sentence of one to eight years.

(2) If the value of stolen things exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

(3) If the value of stolen things exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to twelve years.

(4) Where an offence referred to in paragraphs 1 to 3 of this Article was committed by several persons or a grievous bodily injury is inflicted upon a person with guilty mind, the offender shall be punished by an imprisonment sentence of three to fifteen years.

(5) If in the course of committing an act referred to in paragraphs 1 to 3 of this Article a person has been killed with guilty mind, the offender shall be sentenced to imprisonment for a minimum term of ten years or convicted to a forty-year imprisonment.

(6) If the value of stolen things referred to in paragraph 1 of this Article does not exceed the amount of one hundred and fifty euro and the offender wanted only to acquire a small material benefit, s/he shall be punished by an imprisonment sentence not exceeding three years.

(7) An attempted offence as of paragraph 6 of this Article shall be punished.

Assault and Robbery

Article 242

(1) Anyone who uses force against a person or threats to attack immediately his/her life or body to deprive a person of a movable article with the intention to obtain unlawful material benefit for him/herself or for someone else by appropriating it, shall be punished by an imprisonment sentence of two to ten years.

(2) If the value of things taken away exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of two to twelve years.

(3) If the value of things taken away exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of three to fifteen years.

(4) Where an offence referred to in paragraphs 1 to 3 of this Article was committed by several persons or grievous bodily injury has been inflicted to some person with guilty mind, the offender shall be punished by an imprisonment sentence of three to fifteen years.

(5) If in the course of committing an act referred to in paragraphs 1 to 3 of this Article a person has been killed with guilty mind, the offender shall be sentenced to imprisonment for a minimum term of ten years or convicted to a forty-year imprisonment.

(6) If value of things taken away referred to in paragraph 1 of this Article does not exceed the amount of one hundred and fifty euro and the offender intended to acquire small material benefit, the offender shall be punished by an imprisonment sentence not exceeding three years.

(7) An attempted offence as of paragraph 6 of this Article shall be punished.

Embezzlement

Article 243

(1) Anyone who, intending to obtain for him/herself or another person unlawful material benefit, appropriates other person's movable article s/he was entrusted with, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) If the value of embezzled things exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to six years.

(3) If the value of embezzled things exceeds the amount of thirty thousand euro or the embezzled thing represents a cultural asset, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Anyone who unlawfully appropriates someone else's movable article s/he found or incidentally came by, intending to obtain for him/herself or another person material benefit, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(5) For offences referred to in paragraphs 1 to 4 of this Article, if embezzled things represent private ownership, prosecution shall be undertaken upon a personal action at law.

Fraud

Article 244

(1) Anyone who, intending to obtain unlawful material benefit for him/herself or to someone else, falsely presenting or concealing facts misleads someone or keeps him/her mislead and thereby instigates him/her to do or fail to do something to the detriment of his/her property or other person's property, shall be punished by a fine or an imprisonment sentence not exceeding three years.

2) Anyone who commits an offence referred to in paragraph 1 of this Article only intending to make detriment to another, shall be punished by a fine or imprisonment sentence not exceeding six months.

(3) Where through an offence referred to in paragraphs 1 and 2 of this Article material benefit is acquired or damage inflicted exceeding the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Where through an offence referred to in paragraphs 1 and 2 of this Article material benefit is acquired or damage exceeding thirty thousand euro inflicted, the offender shall be punished by an imprisonment sentence of two to ten years.

III-Founded Obtaining and Using Loans and Other Benefits

Article 245

(1) Anyone who by false presentation or concealment of facts obtains for him/herself or other person a loan, subsidy or any other benefit, although s/he does not fulfill the required conditions for that, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) Anyone who uses the loan, subsidy or any 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 an imprisonment sentence not exceeding two years.

(3) For offences referred to in paragraphs 1 and 2 of this Article, the responsible person in a business organisation or other business entity shall be punished by a provided for sentence if the loan, subsidy or other benefit were obtained for the business organisation or other business entity or if they were not used for the intended purposes by those entities.

Petty Larceny, Embezzlement and Fraud

Article 246

(1) Anyone who commits a petty larceny, embezzlement or fraud, shall be punished by a fine or an imprisonment sentence not exceeding six months.

(2) Theft, embezzlement or fraud are deemed petty if the value of things stolen or embezzled i.e. damage caused by fraud does not exceed the amount of one hundred fifty euro, and the offender intended to acquire small material benefit i.e. to inflict small damage.

(3) For offences referred to in paragraph 1 of this Article, if it was committed to the detriment of property of citizens, prosecution shall be undertaken upon a personal action at law.

Deprivation of Another's Property

Article 247

(1) Anyone who, without the intention to acquire material benefit, unlawfully deprives other person of a movable article, shall be punished by a fine or an imprisonment sentence not exceeding six months.

(2) If the value of things deprived from others or appropriated exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence not exceeding two years.

(3) If the value of things deprived from others or appropriated exceeds the amount of thirty thousand euro or the thing represents a cultural asset, the offender shall be punished by an imprisonment sentence of three months to three years.

(4) For offences referred to in paragraphs 1 to 3 of this Article, if the thing deprived is privately owned, prosecution shall be undertaken upon a personal action at law.

Deprivation of a Motor Vehicle

Article 248

(1) Anyone who unlawfully deprives another person of her/his motor vehicle with the intention to use it for driving, shall be punished by a fine or an imprisonment sentence not exceeding two years.

(2) If the perpetrator of an offence referred to in paragraph 1 of this Article out of negligence caused damage to the seized vehicle exceeding the amount of one thousand euro, or made it possible for another person to do that, s/he shall be punished by a fine or an imprisonment sentence not exceeding three years.

(3) An attempted offence as of paragraph 1 of this Article shall be punished.

Abuse of Trust

Article 249

(1) Anyone representing property interests of another person, or taking care of another person's property abuses authorizations granted to him/her, with the intention to acquire material benefit for him/herself or others and to damage the person whose property interests s/he represents or whose property s/he takes care of, shall be punished by a fine or an imprisonment sentence not exceeding three years.

(2) Where through an offence referred to in paragraph 1 of this Article, material benefit is acquired or damage caused in the amount exceeding three thousand euro, the offender shall be punished by an imprisonment sentence of one to six years.

(3) Where through an offence referred to in paragraph 1 of this Article, material benefit is acquired or damage caused exceeding the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Where an offence referred to in paragraphs 1 to 3 of this Article was committed by a guardian or an attorney-at-law, s/he shall be punished for offences referred to in paragraph 1 by an imprisonment sentence of six months to five years, for offences referred to in paragraph 2 by an imprisonment sentence of one to eight years and for offences referred to in paragraph 3 by an imprisonment sentence of two to ten years.

Extortion

Article 250

(1) Anyone who, with the intention to acquire unlawful material benefit for him/herself or other person, by force or threat coerces another person to do or not do something to the detriment of his/her property or other person's property, shall be punished by an imprisonment sentence of one to eight years.

(2) Where through an offence referred to in paragraph 1 of this Article material benefit was acquired in the amount exceeding three thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

(3) Where through an offence referred to in paragraph 1 of this Article material benefit in the amount exceeding thirty thousand euro was acquired, the offender shall be punished by an imprisonment sentence of two to twelve years.

(4) Anyone who commits offences referred to in paragraphs 1 to 3 of this Article or the offence was committed by several persons in an organized manner, shall be punished by an imprisonment sentence of three to fifteen years.

Blackmail

Article 251

(1) Anyone who, intending to obtain unlawful material benefit for him/herself or for another, threatens to a person to reveal something detrimental to the honour or reputation of that person or persons close to him/her and thereby coerces him/her to do something or not do something to the detriment of his/her property or another's property, shall be punished by an imprisonment sentence of three months to five years.

(2) Where through an offence referred to in paragraph 1 of this Article material benefit exceeding the amount of three thousand euro was obtained, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Where through an offence referred to in paragraph 1 of this Article, material benefit was obtained exceeding the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

(4) Anyone who commits offences referred to in paragraphs 1 to 3 of this Article or if the offence was committed by several persons in an organized manner, shall be punished by an imprisonment sentence of two to twelve years.

Usury

Article 252

(1) Anyone who gives money or other consumable things on loan to another person and thus receives or stipulates for him/herself or for other disproportionate material benefit, taking advantage of bad financial standing, aggravated circumstances, extreme need, levity or insufficient capacity for forming a judgment on the part of the injured party, shall be punished by an imprisonment sentence not exceeding three years and by a fine.

(2) Where through an offence referred to in paragraph 1 of this Article, the injured party suffered grave consequences or the offender obtained material benefit in the amount exceeding three thousand euro, s/he shall be punished by an imprisonment sentence of six months to five years and by a fine.

(3) Where through an offence referred to in paragraph 1 of this Article, material benefit was acquired in the amount exceeding thirty thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years and by a fine.

Destroying and Damaging Another's Property

Article 253

(1) Anyone who destroys, damages or makes inappropriate for use another's property, shall be punished by a fine or an imprisonment sentence not exceeding six months.

(2) Where through an offence referred to in paragraph 1 of this Article, damage is caused exceeding the amount of three thousand euro, the offender shall be punished by a fine or an imprisonment sentence not exceeding two years.

(3) Where through an offence referred to in paragraph 1 of this Article damage is caused in the amount exceeding thirty thousand euro or the offence was committed against a cultural asset, the offender shall be punished by an imprisonment sentence of six months to five years.

(4) For offences referred to in paragraph 1 of this Article, if the thing damaged is privately owned, prosecution shall be undertaken upon a personal action at law.

Unlawful Occupying of Land

Article 254

(1) Anyone who unlawfully occupies another's land, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) If the land occupied is a part of a protective forest, a national park or other land intended for special purposes, the offender shall be punished by an imprisonment sentence of three months to three years.

Infringement of Rights of Others

Article 255

(1) Anyone who, with the intention of thwarting the exercise of the right to things alienates, destroys, damages or deprives his/her thing to which another person has the right of pledge or the right of usufruct and thereby damages that person, shall be punished by a fine or imprisonment not exceeding six months.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on anyone who, with the intention of thwarting settlement with a creditor during coercive enforcement,

alienates, destroys, damages or conceals parts of his/her property and thereby causes damage to the creditor.

(3) For offences referred to in paragraph 1 and 2 of this Article, if the injured parties are citizens, prosecution shall be undertaken upon a personal action at law.

Concealment

Article 256

(1) Anyone who conceals, smuggles, purchases, accepts as a pawn or in some other manner obtains an object known to be gained through a criminal offence, or whatever was acquired for it through sale or exchange, shall be punished by a fine or imprisonment sentence not exceeding three years, provided that it shall not exceed the sentence provided for the offence by which the thing has been obtained.

(2) Anyone who commits an offence referred to in paragraph 1 of this Article and who could have been and was obliged to know the thing was obtained through a criminal offence shall be punished by a fine or imprisonment not exceeding one year.

(3) If a perpetrator engages in the commission of a criminal offence referred to in paragraph 1 of this Article or the offence was committed by several persons in an organized manner or the value of things concealed exceeds the amount of thirty thousand euro, s/he shall be punished by an imprisonment sentence of six months to five years.

Prosecution in Case when the Offender is Closely Related to the Injured Party

Article 257

For criminal offences referred to in Art. 239, 240, 244, 248, 249 paragraphs 1 to 3, and 256 of this Code, if the offences were committed against a spouse, a person the injured party lives in a durable customary marriage with, a direct blood relative, a brother or a sister, adoptant parent or adopted child, or other persons the offenders lives with in a common household, prosecution shall be undertaken under a personal action at law.

TITLE TWENTY THREE

CRIMINAL OFFENCES AGAINST PAYMENT TRANSACTIONS AND BUSINESS OPERATIONS

Counterfeiting Money

Article 258

(1) Anyone who makes false money with the intention of releasing it into circulation as genuine one or who alters genuine money with the same intention, shall be punished by an imprisonment sentence of two to twelve years.

(2) Anyone who acquires false money with the intention of releasing it into circulation as genuine or who releases false money into circulation, shall be punished by an imprisonment sentence of two to ten years.

(3) Where through an offence referred to in paragraphs 1 and 2 of this Article false money is made, altered, released into circulation or acquired and it exceeds the amount of fifteen thousand euro or an equivalent amount in foreign currency, the offender shall be punished by an imprisonment sentence of five to fifteen years.

(4) Anyone who accepted false money as genuine and after learning it is false releases it into circulation or who knows that money is counterfeited or that false money is released into circulation and does not report it, shall be punished by a fine or imprisonment sentence of one year.

(5) False money shall be seized.

Counterfeiting Securities

Article 259

(1) Anyone who makes false securities or alters real securities with the intention of using them as real or giving them to another for use or who uses such false securities as genuine ones or obtains them with such intention, shall be punished by an imprisonment sentence of one to five years.

(2) If the aggregate amount of counterfeited securities referred to in paragraph 1 of this Article exceeds three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If the aggregate amount of counterfeited securities referred to in paragraph 1 of this Article exceeds thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

(4) Anyone who accepts false securities as genuine ones and releases them into circulation after learning they are false, shall be punished by a fine or imprisonment not exceeding one year.

(5) False securities shall be seized.

Counterfeiting and Abuse of Credit Cards and Cards for Non-cash Payment

Article 260

(1) Anyone who makes a false payment card or who alters a genuine payment credit with the intention of using it as a genuine one or who obtains such a false payment card in view of use or uses it as a genuine one, shall be punished by an imprisonment sentence not exceeding three years.

(2) If the perpetrator of an offence referred to in paragraph 1 of this Article acquired unlawful material benefit by using the card, s/he shall be punished by an imprisonment sentence of six months to five years.

(3) If the perpetrator of an offence referred to in paragraph 1 of this Article acquired unlawful material benefit in the amount exceeding three thousand euro, s/he shall be punished by an imprisonment sentence of one to eight years.

(4) If the perpetrator of an offence referred to in paragraph 1 of this Article acquired unlawful material benefit in the amount exceeding thirty thousand euro, s/he shall be punished by an imprisonment sentence of two to ten years.

(5) The sentence referred to in paragraphs 1 to 4 of this Article shall also be imposed upon an offender who commits such an offence by unlawful use of someone else's card.

Counterfeiting Value Bearing Marks

Article 261

(1) Anyone who makes false or alters genuine value bearing marks with the intention to use them as genuine ones or to give them to other for use or who uses such false marks as genuine ones or obtains them with such intention, shall be punished by an imprisonment sentence not exceeding three years.

(2) If the aggregate value of marks referred to in paragraph 1 of this Article exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of six months to five years.

(3) If the aggregate value of signs referred to in paragraph 1 of this Article exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Anyone who removes the stamp by which value bearing marks are annulled or uses any other manner to give these marks appearance as if they were not used in view of using them again or who reuses marks or sells them as if they were valid, shall be punished by a fine or imprisonment sentence not exceeding one year.

(5) False value bearing marks shall be seized.

Making, Acquiring and Giving to Another of Means for Counterfeiting

Article 262

(1) Anyone who makes, acquires, sells or gives to another for use means for making false money, payment cards or false securities shall be punished by an imprisonment sentence of six months to five years.

(2) Anyone who makes, acquires, sells or gives to another for use means for making false value bearing marks shall be punished by a fine or imprisonment sentence not exceeding two years.

(3) Means referred to in paragraphs 1 and 2 of this Article shall be seized.

Issuing Uncovered Checks and Noncash

Payment Means

Article 263

(1) Anyone who uses an uncovered debit payment card or uses a credit payment card but does not provide coverage for it within the stipulated term, and thereby acquires for him/herself or another unlawful material benefit in the amount exceeding one hundred and fifty euro, shall be punished by a fine or imprisonment sentence not exceeding three years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on anyone who, with the intention of acquiring unlawful material benefit in the amount exceeding five hundred euro for him/herself or for another, issues, releases into circulation a cheque, bill of exchange or any kind of surety, or any other means of payment or means ensuring payment, though s/he knows they are not covered.

(3) If material benefit in the amount exceeding three thousand euro was acquired by an offence referred to in paragraphs 1 and 2 of this Article, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Where through an offence referred to in paragraphs 1 and 2 material benefit was acquired in the amount exceeding thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Evasion of Taxes and Contributions

Article 264

(1) Anyone who, with the intention that s/he or another fully or partially evades payment of taxes, contributions or other required imposts, gives false data on lawfully obtained revenues, objects or other facts influencing the establishment of such liabilities or who, with the same intention, in case of obligatory reporting, does not report lawfully obtained revenues or objects or other facts that influence the establishment of such liabilities or who with the same intention in some other manner conceals data in relation to the establishment of said liabilities and the amount of liability the payment of which is being evaded exceeds one thousand euro, shall be punished by an imprisonment sentence not exceeding three years and by a fine.

(2) If the amount of liability referred to in paragraph 1 of this Article the payment of which is being evaded exceeds the amount of ten thousand euro, the offender shall be punished by an imprisonment sentence of one to six years and by a fine.

(3) If the amount of liability referred to in paragraph 1 of this Article whose payment is being evaded, exceeds the amount of one hundred thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years and by a fine.

Smuggling

Article 265

(1) Anyone who smuggles goods over the customs line evading customs supervision measures or who by evading customs supervision measures smuggles goods over customs line armed, in a group or using force or threats, shall be punished by an imprisonment sentence of six months to five years and by a fine.

(2) 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 an imprisonment sentence of one to eight years and by a fine.

(3) Goods which are subject of offences referred to in paragraphs 1 and 2 of this Article shall be seized.

(4) Means of transport which hidden or secret places were used for transport of goods subject to offences referred to in paragraph 1 of this Article or intended for committing these criminal offences may be seized if the owner or user of the vehicle was aware of it or could have been aware and was obliged to be aware of it and if the value of goods subject of the criminal offence exceeds one third of value of the means of transport at the time of commission of the criminal offence.

Forbidden Engaging in Banking, Stock-Exchange and Insurance Activity

Article 266

(1) Anyone who, without an approval or in breach of conditions under which it was granted engages in banking, stock-exchange or insurance activity, shall be punished by an imprisonment sentence of three months to five years.

(2) A responsible person in a legal entity shall be punished by a provided for sentence For offences referred to in paragraph 1 of this Article, if the legal person unlawfully engages in one of the above mentioned transactions.

Issuing Uncovered Securities

Article 267

(1) A responsible person in a bank, business organisation or other business entity issuing securities, who allows for securities to be issued, even though s/he was aware or could have been aware and was obliged to be aware of the fact that the issuer could not fulfil its obligations resulting from the issuance, under the conditions, within the time limit and in the manner laid down by law or by the decision on issuance, shall be punished by a fine or imprisonment not exceeding one year.

(2) A person in official capacity who allows for securities to be issued even though s/he was aware or could have been aware and was obliged to be aware of the impossibility to fulfil the obligations resulting from the issuance under the conditions, within the time limit and as provided in law or by the decision on issuance, shall be punished by an imprisonment sentence not exceeding one year.

(3) A responsible person in a bank who grants a surety for a certain issuance of securities even though s/he was aware or could have been aware and was obliged to be aware of the impossibility to perform a bank obligation taken on with the surety, under the conditions, within the time limit and in the manner envisaged by law or surety, shall be punished by a fine or imprisonment not exceeding six months.

Money Laundering

Article 268

(1) Anyone who through banking, financial or other business operations conceals the manner s/he obtained money or other property which s/he knows to be obtained through a criminal offence, shall be punished by an imprisonment sentence of six months to five years.

(2) If the perpetrator of an offence referred to in paragraph 1 of this Article is at the same time a perpetrator or an accomplice in a criminal offence through which money or material benefit referred to in paragraph 1 of this Article was obtained, s/he shall be punished by an imprisonment sentence of one to eight years.

(3) If the amount of money or value of property referred to in paragraphs 1 and 2 of this Article exceed the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence of one to ten years.

(4) Where an offence referred to in paragraphs 1 and 2 of this Article was committed by several persons who were associated to commit such offences, they shall be punished by an imprisonment sentence of three to twelve years.

(5) Whoever commits an offence referred in paragraphs 1 and 2 of this Article and could have and was obliged to be aware that the money or the property constitute revenue acquired through criminal activity, shall be punished by an imprisonment sentence not exceeding three years.

(6) Money and property referred to in paragraphs 1, 2 and 3 of this Article shall be seized.

Violation of Equality in the Conduct of Business Activities

Article 269

(1) Anyone who through abuse of his/her official position or authorizations limits free or independent connecting of business organisations or other business entities in conducting business activities in the economic territory of Montenegro, deprives it of the right or limits its right to conduct business activities in a particular territory, puts it into an unequal position in relation to other business entities with reference to conditions of doing business or limits free performance of business activities, shall be punished by an imprisonment sentence of three months to five years.

(2) Anyone who abuses his/her social position or influence in view of committing a criminal offence referred to in paragraph 1 of this Article shall be punished by a sentence referred to in paragraph 1 of this Article.

Abuse of Monopolistic Position

Article 270

A responsible person in a business organisation or other business entity who has the capacity of a legal person or an entrepreneur, who through abuse of monopolistic or dominant position in the market or by entering into monopolistic contracts causes market disruptions or brings that entity into a favoured position in relation to others, so as to make material benefit for that entity or for another entity or inflicts damage to other business entities, consumers or users of services, shall be punished by an imprisonment sentence of three months to five years.

Unauthorized Use of Another's Company Name

Article 271

Anyone who, with the intention to deceive buyers or users of services, makes use of another's company name, another's geographic mark of origin, another's stamp or trademark or another's special mark for goods or includes particular features of these marks into his/her business organisation, his/her stamp or trademark or his/her special mark of goods, shall be punished by a fine or imprisonment sentence not exceeding three years.

Negligence in Business Operations

Article 272

(1) A responsible person in a business organisation or other business entity in which s/he has no majority holding who knowingly breaches laws, other regulations or general acts on business activities or obviously negligently does business and thereby out of negligence causes damage exceeding three thousand euro to that business organisation or another business entity, shall be punished by a fine or imprisonment sentence not exceeding three years.

(2) Where through offences referred to in paragraph 1 of this Article damage was caused exceeding the amount of thirty thousand euro or a compulsory settlement or a bankruptcy procedure is instituted, the offender shall be punished by an imprisonment sentence of six months to five years.

Causing Bankruptcy

Article 273

(1) A responsible person in a business organisation or other business entity having the capacity of a legal person, who through irrational spending of funds or through selling them for a mere trifle, by excessive borrowing, by undertaking disproportional obligations, by recklessly concluding contracts with persons incapable of payment, by omitting to timely collect claims, by destroying or concealing property or by other acts which are not in compliance with conscientious business operations causes bankruptcy and thereby causes damage to another, shall be punished by an imprisonment sentence of six months to five years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by an imprisonment sentence of three months to three years.

Causing False Bankruptcy

Article 274

(1) A responsible person in a business organisation or another business entity who has the capacity of a legal person or an entrepreneur who, with the intention for that entity to evade paying liabilities, causes bankruptcy of that entity by a seeming or a real decrease of its property by:

1) by concealing, seemingly selling, selling below the market value or by ceding free of charge the entire or a part of the property of a business entity,

2) by concluding fictitious contracts on debt and recognizing non-existing claims,

3) by concealing, destroying or altering a business entity is bound to keep under law so that it is not possible to observe from them the actual business results or the position of funds or liabilities or by presenting that condition by drafting false documents or in any other manner to be such that on these grounds it is possible to declare itself bankrupt, shall be punished by an imprisonment sentence of six months to five years.

(2) Where through offences referred to in paragraph 1 of this Article a creditor suffers grave consequences, the offender shall be punished by an imprisonment sentence of two to ten years.

Damaging Creditors

Article 275

(1) A responsible person in a business organisation or other business entity having the capacity of a legal person or an entrepreneur who, knowing that the entity has become incapable of payment, by paying the debt or in other manner, deliberately places the creditor in a more favourable position and thereby significantly damages another creditor, shall be punished by an imprisonment sentence of three months to three years.

(2) A responsible person referred to in paragraph 1 of this Article or an entrepreneur who, knowing that the entity has become incapable of payment and with the intention to deceive or damage the creditor, recognizes false claims, makes false contracts or through some other fraudulent acts damages the creditor, shall be punished by an imprisonment sentence of three months to five years.

(3) Where through an offence referred to in paragraphs 1 and 2 of this Article, damage was inflicted on the creditor exceeding the amount of forty thousand euro or the procedure of compulsory settlement or bankruptcy was initiated against the injured party due to it, the offender shall be punished by an imprisonment sentence of one to eight years.

Abuse of Authorizations in Economy

Article 276

(1) A responsible person in a business organisation or some other business entity who has the capacity of a legal person or an entrepreneur who, with the intention of obtaining unlawful material benefit for the legal person in which s/he is employed, for another legal person or another business entity with the capacity of a legal person:

1) creates or keeps illicit monetary, merchandise or other value funds in the country or abroad,

2) makes documents with false contents, false balances, estimates or through interventions or false presentation or concealment of facts, falsely presents the position or movement of funds and results of business operations, misleading in that way management authorities in the business organisation or in another legal person on the occasion of decision making on management affairs or places in a more favourable position a business organisation or other legal person on the occasion of obtaining funds or other benefits which would not be recognized to them according to the existing regulations,

3) in relation to the fulfilment of tax liabilities or in relation to the payment of other imposts withholds funds which constitute a public revenue,

4) uses resources s/he disposes of in breach of their purpose,

5) in some other manner gravely violates his/her authorizations with reference to management, disposing and use of property, shall be punished by an imprisonment sentence of three months to five years.

(2) Where through an offence referred to in paragraph 1 of this Article, material benefit was acquired exceeding the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Damaging Business Reputation and Credit Rating

Article 277

(1) Anyone who, with the intention to violate business reputation or credit standing of another, states false data or falsely presents his/her business operations, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article results in grave consequences, the offender shall be punished by an imprisonment sentence of three months to three years.

(3) Prosecution for offences referred to in paragraphs 1 and 2 of this Article shall be undertaken upon a personal action at law.

False Balance

Article 278

Anyone who, with the intention of obtaining some benefit for him/herself or for another or to inflict some harm to another, compiles in a business organisation or another business entity a false balance determining the profit or loss of that entity or determining the share of each member of a business organization in the profit or loss, shall be punished by an imprisonment sentence of three months to five years.

Abuse of Appraisal

Article 279

(1) An authorized appraiser who on the occasion of appraisal of property of a business organisation or another business entity abuses his/her authorizations and thereby makes profit for him/herself or for another or inflicts damage to another, shall be punished by an imprisonment sentence of three months to five years.

(2) Where through an offence referred to in paragraph 1 of this Article material benefit is acquired or damage exceeding the amount of three thousand euro caused, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Where through an offence referred to in paragraph 1 of this Article material benefit acquired or damage caused exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Disclosing a Business Secret

Article 280

(1) Anyone who without authorization communicates to another, hands over or in any other manner makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorized person, shall be punished by an imprisonment sentence of three months to five years.

(2) If the offence referred to in paragraph 1 of this Article was committed out of greed or with reference to strictly confidential data or in order to make the data public or use them abroad, the offender shall be punished by an imprisonment sentence from two to ten years.

(3) Anyone who commits an offence referred to in paragraph 1 of this Article out of negligence, shall be punished by an imprisonment sentence not exceeding three years.

(4) Business secrets are deemed to be data and documents which were proclaimed as such by means of a law, other regulation or decision of a competent authority passed under law, and whose disclosure would or could cause detrimental consequences for a business organisation or other business entity.

Disclosing and Using Stock-exchange Secrets

Article 281

(1) Anyone who reveals stock-exchange or stock-exchange broker operations related data deemed to be a stock-exchange secret to an unauthorized person or who comes by such data and upon using them makes material benefit, shall be punished by an imprisonment sentence of three months to five years.

(2) Where through an offence referred to in paragraph 1 of this Article material benefit was obtained exceeding the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Where through an offence referred to in paragraph 1 of this Article material benefit was acquired exceeding the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Making Impossible Performance of Control

Article 282

Anyone who makes it impossible for the body in charge of performing control to examine the business books or other documents or makes impossible inspection of materials, premises or other objects, shall be punished by a fine or imprisonment sentence not exceeding one year.

Unauthorized Production

Article 283

(1) Anyone who in an unauthorizedly produces or processes goods for the production or processing of which an approval of a competent authority is required, shall be punished by a fine or imprisonment sentence not exceeding two years.

(2) Anyone who produces or processes goods the production or processing of which is forbidden, shall be punished by an imprisonment sentence not exceeding three years.

(3) Goods and means for the production and processing shall be seized.

Illicit Trade

Article 284

(1) Anyone who, without an authorization for trade, acquires for sale goods or other general use objects in a higher quantity or value exceeding the amount of three thousand euro, or who in an unauthorized manner and to a larger extent deals with trade or mediation in trade or with representation of organisations in internal or foreign trade of goods and services, shall be punished by a fine or imprisonment sentence not exceeding two years.

(2) Anyone who deals with selling goods the production of which s/he organized in an unauthorized manner, shall be punished by an imprisonment sentence of three months to three years.

(3) Anyone who in an unauthorized manner sells, buys or exchanges goods or objects the trade of which is forbidden or limited shall also be punished by a sentence referred to in paragraph 2 of this Article.

(4) Where a perpetrator of an offence referred to in paragraphs 1 to 3 of this Article organized a network of resellers or middlemen or obtained material benefit exceeding the amount of three thousand euro, s/he shall be punished by an imprisonment sentence of six months to five years.

(5) Where a perpetrator of an offence referred to in paragraphs 1 to 3 of this Article obtained material benefit exceeding the amount of thirty thousand euro, s/he shall be punished by an imprisonment sentence of one to six years.

(6) Goods and objects which are the subject of illicit trade shall be seized.

Deceiving Buyers

Article 285

Anyone who, with the intention to deceive buyers releases into circulation products with a label including data which do not suit the content, type, origin or quality of the product or releases

into circulation products which according to their quantity and quality do not suit what is normally implied by such products or releases into circulation products without a label on the content, type, origin or quality of the product when such a label is required or uses obviously false advertisement while releasing the products into circulation, shall be punished by an imprisonment sentence not exceeding three years and by a fine.

**Counterfeiting Markings
for Goods, Measures and Weights**

Article 286

(1) Anyone who, with the intention to use them as genuine makes false seals, stamps, brands or other markings for marking domestic or foreign goods by which gold or other precious metals, wood, cattle or other goods are stamped or who with the same intention alters such markings or who uses such false or altered markings as genuine ones, shall be punished by a fine or imprisonment sentence not exceeding two years.

(2) False markings, measurements and weights shall be seized.

**TITLE TWENTY FOUR
CRIMINAL OFFENCES AGAINST HUMAN HEALTH**

**Failure to Act According to Health Regulations
during Epidemics**

Article 287

Anyone who during an epidemic of a dangerous contagious disease fails to act according to regulations, decisions or orders by which measures are laid down for it to be suppressed or prevented, shall be punished by a fine or imprisonment sentence not exceeding one year.

Transmitting Contagious Diseases

Article 288

Anyone who fails to act according to regulations, decisions or orders for suppressing or preventing contagious diseases, due to which contagious disease is transmitted, shall be punished by an imprisonment sentence not exceeding three years.

Transmitting an HIV Infection

Article 289

(1) Anyone who knowingly brings another into danger of being infected by HIV virus, shall be punished by an imprisonment sentence not exceeding two years.

(2) Anyone who knowingly fails to adhere to regulations and measures related to preventing the spreading of HIV infection and thereby out of negligence brings about transmission of HIV virus infection to another, shall be punished by an imprisonment sentence of one to five years.

(3) Anyone who, knowing that s/he is infected by HIV virus, consciously transmits the infection to another, shall be punished by an imprisonment sentence of two to twelve years.

(4) Where through an offence referred to in paragraph 3 of this Article, the infected person dies, the offender shall be punished by an imprisonment sentence of five to fifteen years.

(5) Where an offence referred to in paragraphs 3 and 4 of this Article was committed out of negligence, the offender shall be punished for an offence referred to in paragraph 3 by an imprisonment sentence not exceeding three years and for an offence referred to in paragraph 4 by an imprisonment sentence of six months to five years.

Unconscientious Provision of Medical Assistance

Article 290

(1) A doctor who in providing medical assistance applies obviously inadequate medicine or obviously inadequate treatment or who fails to apply adequate hygienic measures or otherwise obviously acts in a conscienceless manner and thereby causes deterioration of the health condition of a person, shall be punished by an imprisonment sentence of three months to three years.

(2) A health worker who in providing medical assistance or care or in doing other medical activity obviously acts in a conscienceless manner thereby causing deterioration of a person's health condition, shall be punished by the sentence referred to in paragraph 1 of this Article.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding one year.

Unlawful Doing of Medical Experiments and Testing of Medicines

Article 291

(1) Anyone who in breach of regulations does medical or other related experiments to people, shall be punished by an imprisonment sentence of three months to five years.

(2) Anyone who in breach of regulations does clinical trials of a medicine, shall be punished by an imprisonment sentence of three months to three years.

Failure to Provide Medical Assistance

Article 292

(1) A doctor who in breach of his/her duty refuses to provide medical assistance to a person in need of such assistance whose life is immediately endangered or who is in danger of suffering grievous bodily injury or whose health may severely deteriorate, shall be punished by a fine or imprisonment sentence not exceeding two years.

(2) Where through an offence referred to in paragraph 1 of this Article a person to whom medical assistance was not provided suffers grievous bodily injury or his/her health severely deteriorates, the offender shall be punished by an imprisonment sentence of three months to four years.

(3) Where through an offence referred to in paragraph 1 of this Article a person who did not receive medical aid dies, the offender shall be punished by an imprisonment sentence of one to eight years.

Quackery

Article 293

Anyone who without adequate professional qualification engages in providing treatments or other medical services, shall be punished by a fine or imprisonment sentence not exceeding two years.

Unlawful Transplantation of Parts of Body

Article 294

(1) A doctor who prior to doing transplantation of a part of body does not obtain a written consent of the recipient or his/her parent, adoptant parent or guardian, if the recipient is a juvenile or a mentally incapacitated person, shall be punished by an imprisonment sentence of three months to three years.

(2) A responsible person in a health institution extracting or transplanting parts of human body or examining their compatibility for transplantation, shall be punished by the sentence referred to in paragraph 1 of this Article, if the institution does not fulfil conditions required for that.

Unlawful Extraction of Parts of Body for Transplantation

Article 295

(1) A doctor who for transplantation extracts a body part from a live, adult, mentally healthy person who has the capacity to exercise rights, without a prior written consent of that person and if s/he extracts a part of the body of a live juvenile, who is mentally incapacitated or does not have the capacity to exercise rights, without obtaining a written consent of that person's parent, adoptant parent or guardian, shall be punished by an imprisonment sentence of three months to four years.

(2) A doctor who takes for transplantation a body part of a dead person whose death was not established in the manner and through a procedure complying with regulations on transplantation of parts of human body, shall be punished by a sentence referred to in paragraph 1 of this Article.

(3) A doctor who for transplantation extracts a body part of a dead person who during his/her life expressly in writing objected to body parts extraction or if s/he takes a part of a deceased juvenile or a mentally incapacitated person without a prior written consent of a parent, adoptant parent or a guardian, shall be punished by a fine or imprisonment sentence not exceeding one year.

Unconscientious Preparation and Issuance of Medicaments

Article 296

(1) A person in charge of issuing medicaments for use in medicine who issues another medicine instead of the prescribed or required medicament, if the replacement is not allowed, or who does not prepare a medicament in the prescribed proportion or quantity or who obviously acts in a conscienceless manner in issuing medicaments and thus causes the health condition of a person to deteriorate, shall be punished by an imprisonment sentence of three months to three years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding 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 harmful products, shall be punished by an imprisonment sentence of three months to three years.

(2) Anyone who releases products referred to in paragraph 1 of this Article into circulation without inspection by an authorized person, when such an inspection is envisaged by regulations, shall be punished by an imprisonment sentence not exceeding three years.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding one year.

(4) Objects referred to in paragraphs 1 and 2 of this Article shall be seized.

Unconscientious Inspection of Foodstuffs

Article 298

(1) An authorized person who unconscientiously inspects livestock for slaughter, meat intended for food and other foodstuffs or who in breach of regulations fails to inspect them thereby making possible release into circulation of meat and other foodstuffs harmful to human health, shall be punished by an imprisonment sentence of three months to three years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding one year.

Pollution of Drinking Water and Foodstuffs

Article 299

(1) Anyone who pollutes drinking water or foodstuffs by some harmful substance, shall be punished by an imprisonment sentence of three months to three years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding one year.

Unauthorized Production, Keeping and Releasing 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, keeps or transports or mediates in the selling or buying, or in some other

manner unlawfully releases into circulation substances or preparations proclaimed to be narcotic drugs, shall be punished by an imprisonment sentence of two to ten years.

(2) Anyone who unauthorizedly brings into Montenegro substances or preparations proclaimed to be narcotic drugs, shall be punished by an imprisonment sentence of two to twelve years.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed by several persons or the offender organized a network of dealers and middlemen, the offender shall be punished by an imprisonment sentence of three to fifteen years.

(4) Perpetrators of offences referred to in paragraphs 1 to 3 of this Article who discloses the person from whom s/he obtains the drugs may be remitted of penalty.

(5) Anyone who unlawfully makes, acquires, possesses or gives for use equipment, material or substances which are known to be intended for producing narcotic drugs, shall be punished by an imprisonment sentence of six months to five years.

(6) Narcotic drugs and substances used for their production shall be seized and destroyed.

Enabling the Enjoying of Narcotic Drugs

Article 301

(1) Anyone who instigates another to take narcotic drugs or gives narcotic drugs to another for his/her or someone else's use, or places at someone's disposal premises for taking the narcotic drugs, or in some other manner enables another to take narcotic drugs, shall be punished by an imprisonment sentence of six months to five years.

(2) Where an offence referred to in paragraph 1 of this Article was committed against a juvenile or more persons or has caused extremely detrimental consequences, the offender thereof shall be punished by an imprisonment sentence of two to ten years.

(3) Narcotic drugs shall be seized and destroyed.

Grave Offences against Human Health

Article 302

(1) Where through offences referred to in Art. 288 and 290 paragraphs 1 and 2, 291, 293, 296 paragraph 1, 297 paragraphs 1 and 2, 298 paragraph 1 and 299 paragraph 1 of this Code, a person suffers grievous bodily injuries or his/her health is severely damaged, the offender shall be punished by an imprisonment sentence of one to eight years.

(2) Where through offences referred to in Articles 288 and 290 paragraphs 1 and 2, 291, 293, 296 paragraph 1, 297 paragraphs 1 and 2, 298 paragraph 1 and 299 paragraph 1 of this Code, one or more persons die, the offender shall be punished by an imprisonment sentence of two to twelve years.

(3) Where through an offence referred to in Art. 290 paragraph 3, 296 paragraph 2, 297 paragraph 3, 298 paragraph 2 and 299 paragraph 2 of this Code, a person is severely injured or her/his health severely damaged, the offender shall be punished by an imprisonment sentence not exceeding four years.

(4) Where through an offence referred to in Art. 290 paragraph 3, 296 paragraph 2, 297 paragraph 3, 298 paragraph 2 and 299 paragraph 2 of this Code, a person dies, the offender shall be punished by an imprisonment sentence of one to eight years.

TITLE TWENTY FIFTH
CRIMINAL OFFENCES AGAINST ENVIRONMENT AND SPATIAL PLANNING

Pollution of the Environment

Article 303

(1) Anyone who by breaching regulations on protection, preservation and development of the environment pollutes the air, water or soil to a larger extent or in a wider area, shall be punished by an imprisonment sentence not exceeding three years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding one year.

(3) Where through an offence referred to in paragraph 1 of this Article animal or plant life was destroyed or damaged to a larger extent or the environment is polluted to such an extent that longer period of time and larger expenditures are needed for removing the damage, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Where through an offence referred to in paragraph 2 of this Article animal and plant life was destroyed or damaged to a larger extent or the environment polluted to such an extent that longer time period and larger expenditures are needed for removing the damage, the offender shall be punished by an imprisonment sentence of six months to five years.

(5) If a suspended sentence is imposed for offences referred to in paragraphs 1 and 4 of this Article, the court may order the offender to take particular prescribed measures of protection, preservation and development of the environment within the specified time limit.

Failure to Take Measures for the Protection of the Environment

Article 304

(1) A person responsible for taking measures for the protection, preservation and development of the environment who fails to take the prescribed measures for the protection of the environment, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding six months.

(3) Where through an offence referred to in paragraph 1 of this Article the air, water or soil were polluted to a larger extent or in a wider area, the offender shall be punished by imprisonment sentence not exceeding three years.

(4) Where through an offence referred to in paragraph 2 of this Article the air, water or soil were polluted to a larger extent or in a wider area, the offender shall be punished by a fine or imprisonment sentence not exceeding one year.

(5) Where through offences referred to in paragraphs 1 and 3 of this Article animal or plant life was destroyed to a larger extent or the environment polluted to such an extent that longer time period and large expenditures are needed to remove detrimental consequences, the offender shall be punished by an imprisonment sentence of one to eight years.

(6) Where through offences referred to in paragraphs 2 and 4 of this Article animal and plant life was destroyed to a large extent or the environment polluted to such an extent that longer time period and larger expenditures are needed to remove detrimental consequences, the offender shall be punished by an imprisonment sentence of six months to five years.

(7) If it imposes a suspended sentence for offences referred to in paragraphs 1 to 6 of this Article, the court may order the offender to take certain prescribed measures of environmental protection, preservation and development within the specified time limit.

**Unlawful Construction and Putting into Operation
Facilities and Installations which Pollute the Environment**

Article 305

(1) A person in official capacity or a responsible person who in breach of regulations on protection, preservation and development of the environment allows construction, putting into operation or use of facilities or installations or use of technology which to a larger extent or in a wider area pollutes the environment, shall be punished by an imprisonment sentence of six months to five years.

(2) Where through offences referred to in paragraph 1 of this Article animal or plant life was destroyed to a larger extent or the environment polluted to such an extent that for removing the consequences of pollution longer time period or larger expenditures are needed, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If a suspended sentence is imposed for offences referred to in paragraphs 1 and 2 of this Article, the court may order the offender to take certain prescribed measures of protection, preservation and development of the environment within the specified time limit.

Damaging of Facilities and Devices for Environmental Protection

Article 306

(1) Anyone who damages, destroys, removes or in any other manner makes useless facilities or devices for the protection of the environment, shall be punished by an imprisonment sentence not exceeding three years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding one year.

(3) Where through offences referred to in paragraph 1 of this Article the air, water or soil were polluted to a larger extent or in a wider area, the offender shall be punished by an imprisonment sentence of six months to five years.

(4) Where through an offence referred to in paragraph 2 of this Article the air, water or soil were polluted to a large extent or in a wider area, the offender shall be punished by an imprisonment sentence not exceeding three years.

(5) Where through an offence referred to in paragraphs 1 and 3 of this Article animal or plant life were destroyed or damaged to a larger extent or the pollution of the environment is of such an extent that for removing its consequences longer time period or major expenditures are needed, the offender shall be punished by an imprisonment sentence of one to eight years.

(6) Where through offences referred to in paragraphs 2 and 4 of this Article animal or plant life were destroyed or damaged to a larger extent or the environment polluted to such an extent that for removing its consequences longer time or larger expenses are needed, the offender shall be punished by an imprisonment sentence of six months to five years.

(7) If a suspended sentence is imposed for offences referred to in paragraphs 1 to 6 of this Article, the court may order to the offender to take particular prescribed measures of protection, preservation and development of the environment within the specified time limit.

Damaging the Environment

Article 307

(1) Anyone who by breaching regulations, using natural resources, constructing facilities, doing any works or in any other manner causes damage to the environment to a larger extent or in a wider area, shall be punished by an imprisonment sentence not exceeding three years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding one year.

(3) Where through an offence referred to in paragraph 1 of this Article animal or plant life were destroyed or damaged to a large extent or the environment polluted to such an extent that for removing its consequences longer time and major expenses are needed, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Where through an offence referred to in paragraph 2 of this Article animal or plant life were destroyed or damaged to a larger extent or the environment polluted to such an extent that for removing its consequences longer time period and major expenses are needed, the offender shall be punished by an imprisonment sentence of six months to five years.

(5) If a suspended sentence is imposed for offences referred to in paragraphs 1 to 4 of this Article, the court may impose an obligation on the offender to take particular measures prescribed for protection, preservation and development of the environment within the specified time limit.

Destruction of Plants

Article 308

(1) Anyone who by breaching regulations destroys or damages plants to a larger extent or in a wider area, shall be punished by a fine or imprisonment not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed against specially protected species of plants, the offender shall be punished by an imprisonment sentence of six months to five years.

(3) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding six months.

(4) Where an offence referred to in paragraph 2 of this Article was committed out of negligence, the offender shall be punished by an imprisonment sentence not exceeding three years.

Killing and Torturing Animals

Article 309

(1) Anyone who by breaching 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 imprisonment sentence not exceeding one year.

(2) Where through an offence referred to in paragraph 1 of this Article animals belonging to specially protected animal species are killed or hurt, the offender shall be punished by an imprisonment sentence of six months to five years.

Destroying and Damaging Protected Natural Assets

Article 310

(1) Anyone who damages or destroys a protected natural asset, shall be punished by an imprisonment sentence of three months to five years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding six months.

Stealing a Protected Natural Asset

Article 311

(1) Anyone who commits theft (Article 239) of a protected natural asset, shall be punished by an imprisonment sentence of one year to six years.

(2) If the protected natural asset was deprived by robbery or assault and robbery or if the value of the stolen natural asset exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of five to fifteen years.

(3) Anyone who, on the occasion of doing construction, mining, water supply, agricultural or other works appropriates a natural asset which has the characteristics due to which it may be declared a protected natural asset, shall be punished according to the provisions of paragraphs 1 and 2 of this Article.

Taking Abroad Protected Natural Assets and Specially Protected Plants and Animals

Article 312

(1) Anyone who, in breach of regulations exports or takes abroad a protected natural asset or specially protected plant or animal, shall be punished by an imprisonment sentence of three months to three years.

(2) An attempted offence shall be punished.

Bringing Dangerous Substances into Montenegro

Article 313

(1) Anyone who, in breach of regulations, brings into Montenegro radioactive or other dangerous substances or dangerous waste materials, or who transports such substances over the territory of Montenegro, shall be punished by an imprisonment sentence not exceeding three years.

(2) Anyone who by abusing her/his position or authorizations allows or enables for substances and waste materials referred to in paragraph 1 of this Article to be brought into Montenegro, or transports the above mentioned substances over the territory of Montenegro, shall be punished by an imprisonment sentence of six months to five years.

(3) Anyone who organizes the commission of offences referred to in paragraph 1 of this Article shall be punished by an imprisonment sentence of one year to eight years.

(4) An attempted offence as of paragraph 1 of this Article shall be punished.

**Unlawful Processing, Disposal and
Storing of Dangerous Substances**

Article 314

(1) Anyone who in breach of regulations processes, disposes, collects, stores or transports radioactive or other dangerous substances or dangerous waste materials, shall be punished by an imprisonment sentence not exceeding three years.

(2) Anyone who by abusing his/her official position or authorizations allows or enables processing, disposal, collecting, storing or transport of substances or waste materials referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of six months to five years.

(3) Where through offences referred to in paragraphs 1 and 2 of this Article, animal or plant life was destroyed to a large extent or the environment polluted to such an extent that a longer period or major expenses are needed to remove its consequences, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) An attempted offence as of paragraph 1 of this Article shall be punished.

(5) If a suspended sentence is imposed for offences referred to in paragraphs 1 to 4 of this Article, a court may impose an obligation on the offender to take particular measures prescribed for protection against ionizing radiation or other prescribed protection measures within the specified time limit.

Unlawful Construction of Nuclear Installations

Article 315

Anyone who in breach of regulations allows or starts construction of a nuclear power plant, installation for production of nuclear fuel or installation for processing of used nuclear waste, shall be punished by an imprisonment sentence of six months to five years.

Failure to Enforce the Decision related to Environmental Protection Measures

Article 316

(1) A person in official capacity or a responsible person who fails to enforce the decision of the competent authority related to taking environmental protection measures, shall be punished by an imprisonment sentence not exceeding three years.

(2) If a suspended sentence is imposed for an offence referred to in paragraph 1 of this Article, the court may impose an obligation on the offender to take measures determined by the competent authority within the specified time limit.

Violation of the Right to be Informed on the State of the Environment

Article 317

(1) Anyone who in breach of regulations does not provide data or provides untrue data on the state of the environment and the phenomena which are necessary for the assessment of

danger for the environment and for taking measures for the protection of life and health of people, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Anyone who makes public untrue data on the state of the environment and thereby causes panic or major public nuisance shall be punished by a sentence referred to in paragraph 1 of this Article.

Transmitting of Contagious Animal and Plant Diseases

Article 318

(1) Anyone who during an epidemics of a livestock disease that may endanger cattle breeding fails to adhere to regulations, decisions and orders prescribing measures for suppressing and preventing the disease, shall be punished by a fine or imprisonment not exceeding two years.

(2) Anyone who in the course of danger of diseases and pests which can endanger animal or plant life does not obey regulations, decisions and orders prescribing measures for suppressing and preventing the disease or pests shall be punished by a fine referred to in paragraph 1 of this Article.

(3) Where through an offence referred to in paragraphs 1 and 2 of this Article animals die, plants are destroyed or some other major damage is done the value of which exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence not exceeding three years.

(4) Where an offence referred to in paragraphs 1 to 3 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding one year.

(5) Anyone who in breach of regulations conceals the existence of a contagious disease among animals or fails to report it to the veterinary service, the veterinary doing private practice or a body competent for veterinary affairs, that there are signs indicating to the existence of such a disease, due to which the contagious disease spreads or animals die or some other major harm the value of which exceeds the amount of three thousand euro is done, shall be punished by a fine or imprisonment not exceeding one year.

Unconscientious Rendering of Veterinary Services

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 acts in a conscienceless manner during treatment of animals thereby causing animals to die or causes other major harm the value of which exceeds the amount of three thousand euro, shall be punished by a fine or imprisonment sentence not exceeding two years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding six months.

Unlicensed Practice of Veterinary Medicine

Article 320

Anyone who without appropriate professional qualification for fee deals with treatment of animals or provides other veterinary services, shall be punished by a fine or imprisonment not exceeding six months.

Producing Harmful Products for Treating Animals

Article 321

(1) Anyone who produces for sale or releases into circulation products for treatment or for preventing epidemics in animals, which are harmful for their life or health, shall be punished by a fine or imprisonment not exceeding one year.

(2) Where through an offence referred to in paragraph 1 of this Article an animal dies or other major harm the value of which exceeds the amount of three thousand euro is done, the offender shall be punished by a fine or imprisonment not exceeding two years.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding six months.

Pollution of Livestock Fodder and Water

Article 322

(1) Anyone who pollutes with some harmful substance livestock fodder or water and thereby brings into danger life and health of animals, shall be punished by a fine or imprisonment not exceeding one year.

(2) Anyone who pollutes water in a fish-pond, lake, river, channel or sea with any harmful substance or by stocking with fish from polluted waters causes danger for survival of fish or other aquatic animals, shall be punished by a sentence referred to in paragraph 1 of this Article.

(3) Where through an offence referred to in paragraphs 1 and 2 of this Article animals die or other large scale damage the value of which exceeds the amount of three thousand euro is done, the offender shall be punished by a fine or imprisonment not exceeding two years.

(4) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding six months.

Devastation of Forests

Article 323

(1) Anyone who in breach of regulations or orders of competent authorities cuts or clears forests, or who damages trees or in some other manner devastates forests or cuts down one or more trees in a park, avenue of trees or in some other place where it is forbidden to cut trees, shall be punished by a fine or imprisonment not exceeding one year.

(2) Anyone who commits an offence referred to in paragraph 1 of this Article in a protective forest, national park or some other special purpose forest shall be punished by an imprisonment sentence of three months to three years.

Forest Theft

Article 324

(1) Anyone who, in view of stealing, cuts down one or more trees in a forest, park or a avenue of trees, and the quantity of cut down trees is larger than one cubic meter, shall be punished by a fine or imprisonment not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article 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 protective forest, a national park or other special purpose forest, the offender shall be punished by an imprisonment sentence of three months to three years and by a fine.

(3) An attempted offence as of paragraphs 1 and 2 of this Article shall be punished.

Unlawful Hunting

Article 325

(1) Anyone who hunts game during closed season or in a territory where hunting is forbidden, shall be punished by a fine or imprisonment not exceeding six months.

(2) Anyone who unauthorizedly hunts game in another's preserve and kills or wounds game or catches it alive, shall be punished by a fine or imprisonment not exceeding one year.

(3) Where an offence referred to in paragraph 2 of this Article was committed against big game, the offender shall be punished by a fine or imprisonment not exceeding 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 needed, or who hunts in a manner or by means which destroy game in a massive manner, shall be punished by an imprisonment sentence not exceeding three years.

(5) The game hunted and the means for hunting shall be seized.

Unlawful Fishing

Article 326

(1) Anyone who catches fish or other aquatic animals during closed season or in waters in which fishing is forbidden, shall be punished by a fine or imprisonment not exceeding six months.

(2) Anyone who uses explosive, electric current, poison, overpowering agents or a manner that is harmful to breeding of fish and other aquatic animals or in a manner used for mass destruction of such animals, shall be punished by an imprisonment sentence not exceeding three years.

(3) Anyone catching fish or other aquatic animals of higher biological value or in larger quantity, or destroys larger quantity of fish or other aquatic animals in fishing, shall be punished by a sentence referred to in paragraph 2 of this Article.

(4) The catch and means for fishing shall be seized.

Building a Facility without a Building Permit

Article 326a

Whoever in breach of regulations on the construction of facilities, spatial planning and development begins building a facility without a previously acquired building permit or builds a facility in breach of the issued building permit and technical documentation or the decision of the competent authority to ban construction, shall be punished by an imprisonment sentence of six months to five years.

Unlawful Connection of a Construction Site to the Technical Infrastructure

Article 326b

Whoever in breach of regulations on the construction of facilities, 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 building facility for which building permit was not issued, shall be punished by an imprisonment sentence of 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 the amount of twenty thousand euro 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 an imprisonment sentence of six months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person in official capacity or a responsible person who fails to install required devices for protection against fires, floods, explosions, poisons or poisonous gases, radioactive or other ionizing radiations, electrical power or other harmful means, or fails to maintain these devices as to the functioning level, or if in need fails 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 the amount of twenty thousand euro.

(3) Where the offences referred to in paragraphs 1 and 2 of this Article were committed at the venue of gathering a lot of people, the offender shall be punished by an imprisonment sentence of one to six years.

(4) Where an offence referred to in paragraphs 1 and 3 of this Article was committed out of negligence, the offender shall be punished by an imprisonment sentence not exceeding 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 obstructs their use, shall be punished by a fine or imprisonment not exceeding two years.

(2) Where through an offence referred to in paragraph 1 of this Article the use of these items is significantly disturbed, the offender shall be punished by an imprisonment sentence of three months to five years.

(3) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding six months.

(4) Where an offence referred to in paragraph 2 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding two years.

Causing Danger by Failure 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 the amount of twenty thousand euro, shall be punished by an imprisonment sentence of six months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a responsible person in a mine, factory, workshop, at a construction site or in some other work place who fails to install safety equipment or does not maintain them at functioning level, or does not put it in use if need be, or does not observe regulations or technical standards on safety at work and thereby causes danger to life and body of people or property the value of which exceeds the amount of twenty thousand euro.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed out of negligence, the offender shall be punished by an imprisonment sentence not exceeding three years.

(4) If a suspended sentence is imposed for an offence referred to in paragraph 2 of this Article, the court may impose an obligation on the offender to ensure safety equipment to be installed, maintained or used within the specified time limit.

Irregular and Improper Construction Work

Article 330

(1) A person responsible for designing, managing or executing construction or construction works, who does not 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 the amount of twenty thousand euro, shall be punished by an imprisonment sentence of six months to five years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding three years.

Damaging Dams and Water Structures

Article 331

(1) Anyone who damages or makes useless a dam or other water structure or device for protection against natural disasters, shall be punished by a fine and imprisonment sentence not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed against a facility or a device of larger importance, the offender shall be punished by an imprisonment sentence of six months to five years.

(3) Where an offence referred to in paragraph 2 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding 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 imprisonment not exceeding two years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on anyone destroying, damaging, or removing a traffic device, means, sign or sign work device or protective and defensive railing serving traffic safety.

Abuse of Telecommunication Signals

Article 333

(1) Anyone who abuses or unnecessarily sends away an internationally agreed signal for call for help or a danger warning signal, or who deceives others by using telecommunication no danger signal, or who abuses an internationally agreed communication signal, shall be punished by an imprisonment sentence not exceeding three years.

(2) Where through an offence referred to in paragraph 1 of this Article danger is caused for life of people or property the value of which exceeds the amount of twenty thousand euro, the offender shall be punished by an imprisonment sentence of six months to five years.

Failure to Remove Danger

Article 334

(1) Anyone who does not 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 the amount of twenty thousand euro, or who does not take measures for removing that danger, even though s/he could have done it without any danger to him/herself or another, shall be punished by a fine or imprisonment not exceeding one year.

(2) Anyone who prevents another from taking measures for removing fire, flood, explosion, traffic accident or other danger to life or body of people or property the value of which exceeds the amount of twenty thousand euro, shall be punished by an imprisonment sentence not exceeding three years.

Unauthorized Handling of Explosive and Inflammable Material

Article 335

(1) Anyone who in breach of regulations stores, keeps, transports or hands over for transport by public traffic means explosive or easily inflammable material or transports such material by him/herself using a public transport means, shall be punished by a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on anyone who unlawfully brings explosive or easily inflammable material into a premise or some other facility which is the venue of gathering of a larger number of people or brings such material into a place where a large number of people gathers or where such gathering is forthcoming.

(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 an imprisonment sentence of three months to three years.

(4) The sentence referred to in paragraph 3 of this Article shall also be imposed on anyone who when entering a storehouse, depot or a storeroom with explosive material does not adhere to the required protection measures.

(5) Where an offence referred to in paragraphs 3 and 4 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding one year.

Unlawful Acquisition and Disposing of Nuclear Substances

Article 336

Anyone who unlawfully acquires, possesses, uses, transports, hands over to another nuclear substances or makes it possible for another to acquire them, shall be punished by an imprisonment sentence not exceeding three years.

Endangering Safety with Nuclear Substances

Article 337

(1) Anyone who threatens to use a nuclear substance to endanger the safety of people, shall be punished by an imprisonment sentence of six months to five years.

(2) Where an offence referred to in paragraph 1 of this Article was committed with the intention to coerce somebody into doing or not doing something, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Where a perpetrator of an offence referred to in paragraphs 1 and 2 of this Article has realized his/her threat due to which a grievous bodily injury is inflicted or property damaged exceeding the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

(4) Where a perpetrator of an offence referred to in paragraphs 1 and 2 of this Article has realized a threat due to which one or more persons died, the offender shall be punished by an imprisonment sentence of three to fifteen years.

Grave Offences against General Safety

Article 338

(1) Where through offences referred to in Art. 327 paragraphs 1 to 3, 328 paragraphs 1 and 2, 329 paragraphs 1 and 2, 330 paragraph 1 and 333 of this Code a grievous bodily injury was inflicted upon a person or a property damage exceeding the amount of forty thousand euro caused, the offender shall be punished by an imprisonment sentence of one to eight years.

(2) Where through offences referred to in Art. 327 paragraphs 1 to 3, 328 paragraphs 1 and 2, 329 paragraphs 1 and 2, 330 paragraph 1 and 333 of this Code one or more persons died, the offender shall be punished by an imprisonment sentence of two to twelve years.

(3) Where through offences referred to in Art. 327 paragraph 4, 328 paragraphs 3 and 4, 329 paragraph 3 and 330 paragraph 2 of this Code a grievous bodily injury of a person was caused or property damage exceeding the amount of forty thousand euro caused, the offender shall be punished by an imprisonment sentence not exceeding four years.

(4) Where through offences referred to in Art. 327 paragraph 4, 328 paragraphs 3 and 4, 329 paragraph 3 and 330 paragraph 2 of this Code one or more persons died, the offender shall be punished by an imprisonment sentence of one to eight years.

**TITLE TWENTY SEVEN
CRIMINAL OFFENCES AGAINST
PUBLIC TRAFFIC SAFETY**

Endangering Public Traffic

Article 339

(1) A participant in traffic on public roads who does not adhere to the traffic safety regulations and thereby endangers public traffic as to bring into danger the life and body of people or property the value of which exceeds the amount of twenty thousand euro causing thus a light bodily injury to another or a property damage exceeding the amount of three thousand euro, shall be punished by a fine or imprisonment sentence not exceeding three years.

(2) Anyone who does not adhere to traffic safety regulations and thereby causes danger to railroad, ship or bus traffic or traffic by cable railway so as to bring into danger the life and body of people or property the value of which exceeds the amount of twenty thousand euro, shall be punished by an imprisonment sentence of six months to six years.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding one year.

**Endangering Traffic Safety with Dangerous
Acts or Means**

Article 340

(1) Anyone who destroys, removes or severely damages a traffic device, means or sign or a sign work device or protective and defending railing serving the traffic safety at roads, or gives a wrong signal or sign, or sets up obstacles on the roads or in some other similar manner brings into danger public traffic and thereby brings into danger the life and body of people or property the value of which exceeds the amount of twenty thousand euro, shall be punished by an imprisonment sentence not exceeding three years.

(2) Anyone who in the manner referred to in paragraph 1 of this Article brings into danger railroad, ship, bus traffic or cable railway and thereby brings into danger life and body of people or property the value of which exceeds the amount of twenty thousand euro, shall be punished by an imprisonment sentence of six months to five years.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding one year.

Endangering Air Traffic Safety

Article 341

(1) Anyone who manages the flight of an aircraft in an irregular or improper manner, omits his/her duty or supervision in relation to the safety of air traffic, gives incorrect information important for a safe flight of an aircraft, or in some other manner endangers the safety of air traffic, shall be punished by an imprisonment sentence of one to six years.

(2) Where an offence referred to in paragraph 1 of this Article was committed out of negligence or by destroying or damaging navigation devices or inflicting other damage to the aircraft out of negligence, the offender shall be punished by an imprisonment sentence of three months to three years.

Endangering Air Traffic Safety by Violence

Article 342

(1) Anyone who uses violence to persons in an aircraft, who sets up or brings into the aircraft explosive or other dangerous devices or substances, or destroys or damages navigation devices or causes other damage to the aircraft so as to bring into danger the safety of air traffic, shall be punished by an imprisonment sentence of two to ten years.

(2) Where through an offence referred to in paragraph 1 of this Article a grievous bodily injury was inflicted to a person or a damage exceeding the amount of forty thousand euro caused, the offender shall be punished by an imprisonment sentence of two to twelve years.

(3) Where through an offence referred to in paragraph 1 of this Article one or more persons died, the offender shall be punished by an imprisonment sentence of five to fifteen years.

Hijacking an Aircraft, Ship or Other Means of Transport

Article 343

(1) Anyone who by force or threat that s/he will use force takes over the control of an aircraft during flight or of a ship when sailing or other means of public transport while they are in motion, shall be punished by an imprisonment sentence of two to ten years.

(2) Where through an offence referred to in paragraph 1 of this Article a grievous bodily injury was inflicted on a person or damage exceeding the amount of forty thousand euro caused, the offender shall be punished by an imprisonment sentence of two to twelve years.

(3) Where through an offence referred to in paragraph 1 of this Article one or more persons died, the offender shall be punished by an imprisonment sentence of five to fifteen years.

Failure to Provide Assistance to a Ship or Another Vessel and to Persons in Danger at Sea or in Inland Waters

Article 344

(1) A commander of a ship, boat or other vessel sailing, a person who acts on his/her behalf or a person who only navigates one of the above mentioned vessels, who in breach of regulations does not undertake saving at sea or in inland waters of the ship, boat or another vessel, of persons or goods in danger, if s/he could have undertaken saving without running risk for

his/her ship, boat or other vessel, shall be punished by an imprisonment sentence of three months to three years.

(2) A person referred to in paragraph 1 of this Article who in breach of regulations does not remove from the navigable way in inland waters a vessel with which the vessel s/he is in command of, or which s/he navigates, collided with, and could have done so without running risk for that vessel, shall be punished by an imprisonment sentence not exceeding three years.

Piracy

Article 345

(1) A member of the crew or a passenger of a private ship or private aircraft who in the high sea or at a place not coming under the authority of any state performs an act of violence or assault and robbery to persons on another ship or aircraft or who retains, hijacks, damages or destroys another ship or aircraft or goods placed on it, or causes damage exceeding the amount of forty thousand euro, shall be punished by an imprisonment sentence of three to fifteen years.

(2) Where through an offence referred to in paragraph 1 of this Article one or more persons died, the offender shall be punished by an imprisonment sentence of five to fifteen years.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed by a member of the crew or a passenger of 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 a sentence envisaged for such an offence.

Unconscientious Performance of Supervision over Public Traffic

Article 346

(1) A person in official capacity or a responsible person who has been entrusted with the supervision and maintenance of roads and pertaining facilities, means of transport or public transport, and the meeting of prescribed work conditions for drivers, or who has been entrusted the direction of driving, who by conscienceless performance of his/her duty causes danger to life or body of people or to property the value of which exceeds the amount of twenty thousand euro, shall be punished by an imprisonment sentence of six months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a responsible person who issues a driving order or allows driving, even though s/he knows that due to fatigue, effects of alcohol or 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 the amount of twenty thousand euro is endangered.

(3) Where an offence referred to in paragraph 1 of this Article was committed out of negligence, the offender shall be punished by an imprisonment sentence not exceeding three years.

Failure to Provide Assistance to a Person Injured in a Traffic Accident

Article 347

(1) Driver of a motor vehicle or another 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 imprisonment not exceeding two years.

(2) Where due to a failure to provide assistance a grievous bodily injury was inflicted, the offender shall be punished by a fine or imprisonment not exceeding three years.

(3) Where due to a failure to provide assistance the injured person dies, the offender shall be punished by an imprisonment sentence of three months to four years.

Grave Offences against the Safety of Public Traffic

Article 348

(1) Where through an offence referred to in Art. 339 paragraphs 1 and 2, 340 paragraphs 1 and 2, 341 paragraph 1, 344 and 346 paragraphs 1 and 2 of this Code, a grievous bodily injury was inflicted to a person, or property damaged exceeding the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(2) Where through offences referred to in Art. 339 paragraphs 1 and 2, 340 paragraphs 1 and 2, 341 paragraph 1, 344 and 346 paragraphs 1 and 2 of this Code, one or more persons died, the offender shall be punished by an imprisonment sentence of two to twelve years.

(3) Where through offences referred to in Art. 339 paragraph 3, 340 paragraph 3, 341 paragraph 2 and 346 paragraph 3 of this Code, a grievous bodily injury was inflicted on a person or property was damaged exceeding the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence not exceeding four years.

(4) Where through offences referred to in Art. 339 paragraph 3, 340 paragraph 3, 341 paragraph 2 and 346 paragraph 3 of this Code, one or more persons died, the offender shall be punished by an imprisonment sentence of 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 in any other manner makes useless a computer datum or a program, shall be punished by a fine or imprisonment not exceeding one year.

(2) Where through an offence referred to in paragraph 1 of this Article damage exceeding the amount of three thousand euro was caused, the offender shall be punished by an imprisonment sentence of three months to three years.

(3) Where through an offence referred to in paragraph 1 of this Article damage exceeding the amount of thirty thousand euro was caused, the offender shall be punished by an imprisonment sentence of three months to five years.

(4) If devices and means used for committing a criminal offence referred to in paragraphs 1 and 2 of this Article are the possession of the offender, they shall be seized.

Computer Sabotage

Article 350

Anyone who enters, destroys, deletes, alters, damages, conceals or in any other manner makes useless a computer datum or a program or destroys or damages a computer or some other device for electronic processing and transfer of data with the intention to make impossible or obstructs significantly the procedure of electronic processing and transfer of data which are significant for state bodies, public services, institutions, business organisations or other entities, shall be punished by an imprisonment sentence of one to eight years.

Producing and Entering Computer Viruses

Article 351

(1) Anyone who makes a computer virus with the intention of entering it into another's computer or computer network, shall be punished by a fine or imprisonment not exceeding one year.

(2) If the offender entered a computer virus into another's computer or computer network and thereby caused damage, s/he shall be punished by a fine or imprisonment not exceeding two years.

(3) The device and means used for committing a criminal offence referred to in paragraphs 1 and 2 of this Article shall be seized.

Computer Fraud

Article 352

(1) Anyone who enters an untrue datum, omits to enter a correct datum or in some other manner conceals or falsely presents a piece of data and thereby influences the result of electronic processing, transfer of data and operations of a computer system with the intention of obtaining unlawful material benefit for him/herself or for another and thereby causes property damage to another, shall be punished by an imprisonment sentence of six months to five years.

(2) Where through an offence referred to in paragraph 1 of this Article material benefit was acquired exceeding the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

(3) Where through an offence referred to in paragraph 1 of this Article, material benefit was acquired exceeding the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to twelve years.

(4) Where an offence referred to in paragraph 1 of this Article was committed only with the intention to cause damage to another, the offender shall be punished by a fine or imprisonment sentence not exceeding two years.

Unauthorized Use of Computers or Computer Networks

Article 353

Anyone who uses computer services or computer network without authorization with the intention to obtain unlawful material benefit for him/herself or for another shall be punished by a fine or imprisonment not exceeding three months.

Obstructing Electronic Processing, Data Transfer and

Computer Network Functioning

Article 354

(1) Anyone who accesses electronic data processing or a computer network without authorization, or causes a hold-up or disturbs the functioning of electronic processing and data transfer or the network, shall be punished by a fine or imprisonment not exceeding two years.

(2) Where an offence referred to in paragraph 1 of this Article caused severe consequences, the offender shall be punished by an imprisonment sentence of six months to five years.

Accessing Protected Computer and Computer Network without Authorization

Article 355

(1) Anyone who, violating protection measures, connects into a computer or a computer network without authorization, shall be punished by a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on whomever intercepts computer data without authorization.

(3) Anyone who uses a datum obtained in the manner envisaged in paragraphs 1 and 2 of this Article, shall be punished by a fine or imprisonment not exceeding three years. (4) Where through offences referred to in paragraph 3 of this Article, severe consequences occurred for another person, the offender shall be punished by an imprisonment sentence of six months to five years.

Preventing and Limiting Access to Public Computer Networks

Article 356

(1) Anyone who prevents or obstructs access to public computer network in an unauthorized way, shall be punished by a fine or imprisonment not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed by a person in official capacity while performing his/her duty, s/he shall be punished by an imprisonment sentence not exceeding three years.

TITLE TWENTY NINE

CRIMINAL OFFENCES AGAINST THE CONSTITUTIONAL ORDER AND SECURITY OF THE REPUBLIC OF MONTENEGRO AND SMN

Jeopardizing Independence

Article 357

Anyone who, in unconstitutional manner attempts to bring Montenegro or SMN into the position of subordination or dependence in relation to some other state, shall be punished by an imprisonment sentence of 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, SMN or any part thereof, shall be punished by an imprisonment sentence for a minimum term of ten years or a forty year imprisonment sentence.

Endangering Territorial Integrity

Article 359

(1) Anyone who by force or in some other unconstitutional manner attempts to secede a part of the territory of Montenegro or SMN, or to annex a part of that territory to another state, shall be punished by an imprisonment sentence of three to fifteen years.

(2) Anyone who by force or in some other unconstitutional manner attempts to change the borders between the member states of SMN, shall be punished by an imprisonment sentence of two to twelve years.

Attacking the Constitutional Order

Article 360

Anyone who by force or threats to use force attempts to change the constitutional order of Montenegro and SMN, shall be punished by an imprisonment sentence of three to fifteen years.

Deposing the Highest State Bodies

Article 361

Anyone who by force or threats to use force attempts to depose some of the highest state bodies of Montenegro or SMN or representatives thereof, shall be punished by an imprisonment sentence of one to eight years.

Calling for a Violent Change of Constitutional Order

Article 362

(1) Anyone who, with the intention to endanger the constitutional order or security of Montenegro or SMN calls for or incites a forced change of their constitutional order, to depose the highest state bodies or representatives thereof, shall be punished by an imprisonment sentence of three months to five years.

(2) Anyone who commits an offence referred to in paragraph 1 of this Article by means of assistance from abroad shall be punished by an imprisonment sentence of one to eight years.

(3) Anyone who with intention to distribute produces or reproduces material which is by its content such that it calls for or incites to offences referred to in paragraph 1 of this Article to be committed or who directs or transfers to the territory of SMN such material, or keeps a larger

quantity thereof with the intention to distribute it him/herself or that someone else distributes it, shall be punished by an imprisonment sentence of three months to three years.

Assassination of the Highest Representatives of the State Union and Member States

Article 363

Anyone who, with the intention to jeopardize the constitutional order or security of Montenegro or SMN deprives of life the President of SMN, President of a member state, Parliament Speaker of SMN, Parliament Speaker of a member state, Prime Minister of a member state, president of the SMN Court, president of the Constitutional Court of a member state, president of the Supreme Court of a member state or the highest Public Prosecutor of a member state, shall be punished by an imprisonment sentence for a minimum term of ten years or a forty year imprisonment sentence.

Armed Rebellion

Article 364

(1) Anyone who participates in an armed rebellion directed at jeopardizing the constitutional order, security or territorial integrity of Montenegro and SMN, shall be punished by an imprisonment sentence of three to fifteen years.

(2) Anyone who organizes or leads an armed rebellion, shall be punished by an imprisonment sentence of five to fifteen years.

Terrorism

Article 365

Anyone who, with the intention of endangering the constitutional order and security of Montenegro or SMN causes explosion or fire or undertakes other generally dangerous acts or abducts a person, or commits another act of violence or threats to undertake some generally dangerous action or to use nuclear, chemical, bacteriological or other generally dangerous substance and whereby may cause fear or feeling of insecurity of citizens, shall be punished by an imprisonment sentence of three to fifteen years.

Diversion

Article 366

Anyone who, with the intention to endanger the constitutional order or security of Montenegro or SMN demolishes, sets on fire or in some other manner destroys or damages an industrial, agricultural or some other industrial facility, means of traffic, device or installation, telecommunication system device, publicly used water, heat, gas or energy system device, dam, depot, building or some other facility of greater significance for the security or supply of citizens or for economy or for the functioning of public services, shall be punished by an imprisonment sentence of three to fifteen years.

Sabotage

Article 367

Anyone who, with the intention to endanger the constitutional order or security of Montenegro or SMN, in a covered, insidious or other similar manner in performing his/her official duty or work obligations, causes damage exceeding the amount of fifteen thousand euro to the state body or organization s/he is employed in, or to any other state body or organization, shall be punished by an imprisonment sentence of 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 military, commercial or official data or documents, shall be punished by an imprisonment sentence of 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 an imprisonment sentence of five to fifteen years.

(3) Anyone who joins a foreign intelligence service, collects data for it or in some other manner supports its work, shall be punished by an imprisonment sentence of 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 an imprisonment sentence of one to eight years.

(5) Where through offences referred to in paragraphs 1 and 2 of this Article, severe consequences occurred for the security, economic or military power of the country, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

(6) Classified data are deemed to be those military, commercial or official data or documents which are by law, some other regulation or decision of a competent authority passed under law, proclaimed to be classified, as well as data and documents which are available only to a certain circle of people, and the revealing of which would cause or could cause detrimental consequences for the security, defence or for the political, military or economic interests of the country.

Revealing a State Secret

Article 369

(1) Anyone who without an authorization discloses, hands over or makes available to an unauthorized person data or documents entrusted with him/her, or data or documents s/he obtained in some other manner, and which represent a state secret, shall be punished by an imprisonment sentence of two to ten years.

(2) Where an offence referred to in paragraph 1 of this Article was committed during immediate danger of war, state of war, armed conflict or a state of emergency or has led to the security, economic or military power of Montenegro or SMN to be endangered, shall be punished by an imprisonment sentence of three to fifteen years.

(3) Where an offence referred to in paragraph 2 of this Article was committed out of negligence, the offender shall be punished by an imprisonment sentence of one to six years.

(4) Data or documents are deemed a state secret if they are proclaimed as such by law, by some other regulation or decision of a competent authority passed under law, and the revealing of which would cause or could cause detrimental consequences to the security, defence or the political, military and economic interests of Montenegro and SMN.

(5) A state secret in terms of paragraph 4 of this Article are not deemed data or documents which are directed to endangering the constitutional order and security of Montenegro and SMN.

Causing National, Race and Religious Hatred, Divisions and Intolerance

Article 370

(1) Anyone who causes and incites national, religious or race hatred, division or intolerance among nations or ethnic groups living in Montenegro, shall be punished by an imprisonment sentence of six months to five years.

(2) Where an offence referred to in paragraph 1 of this Article was committed by coercion, ill-treatment, endangering of safety, exposure to mockery of national, ethnic or religious symbols, by damaging other person's goods, by desecration of monuments, memorials or tombs, the offender shall be punished by imprisonment of one to eight years.

(3) Anyone who commits an offence referred to in paragraphs 1 and 2 of this Article by abusing his/her position or authorizations or if as the result of these acts riots, violence or other severe consequences for the joint life of people, national minorities or ethnic groups living in Montenegro occur, shall be punished for an offence referred to in paragraph 1 of this Article by an imprisonment sentence of one to eight years, and for an offence referred to in paragraph 2 by an imprisonment sentence of two to ten years.

Violation of Territorial Sovereignty

Article 371

Anyone who by breaching the rules of international law breaks through the territory of Montenegro or the territory of SMN, shall be punished by an imprisonment sentence of one to eight years.

Associating for Unconstitutional Activities

Article 372

(1) Anyone who establishes a group or any other association in view of committing criminal offences referred to in Articles 357 to 363, Articles 365 to 367 of this Code, shall be punished by a sentence provided for the offence for the commission of which the association was organized.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on anyone who makes an agreement with another to commit any of the offences referred to in paragraph 1 of this Article, and may be punished more leniently.

(3) Anyone who becomes a member of an association referred to in paragraph 1 of this Article shall be punished by an imprisonment sentence of six months to five years.

(4) Anyone who committed an offence referred to in paragraph 1 of this Article, who by revealing the association or in any other manner prevents the commission of criminal offences envisaged in paragraph 1 of this Article, shall be punished by an imprisonment sentence not exceeding three years, and s/he may be remitted of penalty.

(5) A member of an association referred to in paragraph 3 of this Article who reveals the existence of an association before committing a criminal offence referred to in paragraph 1 of this Article, as its member or on behalf of it, shall be punished by an imprisonment sentence not exceeding one year, and s/he may be remitted of penalty.

**Preparing Acts against the Constitutional Order and
Security of Montenegro or SMN**

Article 373

(1) Anyone who prepares the commission of criminal offences referred to in Articles 357 to 367 and Article 368 paragraphs 1 and 2 of this Code, shall be punished by an imprisonment sentence of one to five years.

(2) Anyone who directs or sends to the territory of Montenegro or the territory of SMN persons or arms, explosive, poisons, equipment, ammunition or other material, in view of committing one or more criminal offences referred to in this Chapter, shall be punished by an imprisonment sentence of two to ten years.

(3) Preparations referred to in paragraph 1 of this Article include acquiring or rendering usable means for committing the criminal offence, removing obstacles for committing the criminal offence, making arrangements, planning or organizing with others committing of the criminal offence or of other activities for creating conditions for immediate commission of the criminal offence.

**Grave Offences against the Constitutional Order and Security of
the Republic of Montenegro and SMN**

Article 374

(1) For a criminal offence referred to in Articles 359 to 361 and Articles 364 to 367 of this Code, due to which one or more persons died, or which brought into danger life of people, or was followed by brutal violence or widespread devastation or endangered the security of economic or military power of the country, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

(2) If on the occasion of committing an offence referred to in paragraph 1 of this Article the offender deprived of life one or more persons with guilty mind, s/he shall be punished by an imprisonment sentence for a minimum term of ten years or a forty year imprisonment.

(3) The sentence referred to in paragraph 2 of this Article shall also be imposed on anyone committing a criminal offence referred to in Article 357, Art. 359 to 362, Art. 364 to 368, Art. 372 and 373 paragraph 2 of this Code during immediate war danger, state of war, armed conflict or state of emergency.

TITLE THIRTY

CRIMINAL OFFENCES AGAINST STATE BODIES

Prevention of a Person in Official Capacity from Performing an Official Act

Article 375

(1) Anyone who by force or threat to use force directly prevents a person in official capacity from performing an official act undertaken within the limits of his/her authorizations, or forces such a person in the same manner into performance of an official act, shall be punished by an imprisonment sentence not exceeding three years.

(2) If during the commission of an offence referred to in paragraph 1 of this Article, the offender insults or maltreats an official or causes him/her a light bodily injury or threatens to use weapons, s/he shall be punished by an imprisonment sentence of three months to three years.

(3) Anyone who commits an offence referred to in paragraphs 1 and 2 of this Article against a judge or a Public Prosecutor during performance of their judicial and prosecutorial duties respectively or to an official in performing affairs of public or state security or the duty of preserving public law and order, preventing and detecting a criminal offence and capture of the offender or confining persons deprived of liberty, shall be punished by an imprisonment sentence of six months to five years.

(4) An attempted offence as of paragraphs 1 and 2 of this Article shall be punished.

(5) If an offender of a criminal offence referred to in paragraphs 1 to 3 of this Article was provoked by unlawful or rude proceeding of an official, s/he may be remitted of penalty.

Attack on a Person in Official Capacity during Performance of an Official Duty

Article 376

(1) Anyone who attacks or threatens to attack an official in the performance of his/her official duty, shall be punished by an imprisonment not exceeding three years.

(2) If during the commission of offences referred to in paragraph 1 of this Article, an official suffered a light bodily injury or was threatened by use of weapons, the offender shall be punished by an imprisonment sentence of three months to three years.

(3) If a criminal offence referred to in paragraphs 1 and 2 of this Article was committed against a judge or a Public Prosecutor, in relation to their judicial or prosecutorial duty or to an official in performance of his/her duty of public or state security, the offender shall be punished by an imprisonment sentence of six months to five years.

(4) An attempted offence as of paragraphs 1 and 2 of this Article shall be punished.

(5) A perpetrator of offences referred to in paragraphs 1 to 3 of this Article who was provoked by unlawful or rude proceeding of a person in official capacity may be remitted of penalty.

Participation in a Group Preventing an Official from Performing an Official Act

Article 377

(1) Anyone who is a part of group preventing by a joint action a person in official capacity from performing an official act or forcing such a person in the same manner into performance of an official act, shall be punished for participation solely by an imprisonment not exceeding two years.

(2) An attempted offence shall be subject to sentence.

(3) The mastermind of a group committing an offence referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of 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 bodies or to a person in official capacity while performing his/her official act, shall be punished by an imprisonment sentence not exceeding three years.

(2) If an offence referred in paragraph 1 of this Article caused failure or significant aggravation of enforcement of lawful decisions or measures of state bodies, the offender shall be punished by an imprisonment sentence of six months to five years.

Failure to Obey Orders to Break Up

Article 379

(1) Anyone who fails to part from a group of people that an authorized official or an authorized military person has asked to break up in circumstances threatening public order, shall be punished by a fine or imprisonment not exceeding three months.

(2) The leader of a group who has committed the offence referred to in paragraph 1 of this Article, shall be punished by a fine or imprisonment not exceeding two years.

Failure to Take Part in Eliminating 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 imprisonment not exceeding 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 person in official capacity has placed on an object or premises for security reasons or who without removing or breaking a seal or a sign, enters such premises or opens an object with an official seal or sign on it, shall be punished by a fine or imprisonment not exceeding one year.

(2) An attempted offence shall be subject to sentence.

Seizure and Destruction of Official Seals and Files

Article 382

(1) Anyone who unlawfully seizes, conceals, destroys, damages or in any other manner makes useless an official seal, register, file or document belonging to a state body, business organisation, institution or other entity conducting public authorizations or held by them, shall be punished by an imprisonment not exceeding three years.

(2) An attempted offence shall be subject to sentence.

False Personation

Article 383

(1) Anyone who, with the intention of obtaining for him/herself or another any benefit or causing damage to another, falsely represents himself/herself as an official or military person or who wears any signs of an official or military person without authorization, shall be punished by a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person performing an act only a certain official or military person has authorization to perform.

Self-help

Article 384

(1) Anyone who acquires a right on his/her own or a right s/he considers is vested in him/her without recourse to legal proceedings, shall be punished by a fine or imprisonment not exceeding six months.

(2) Where an offence referred to in paragraph 1 of this Article was committed by use of force or threat, the offender shall be punished by an imprisonment sentence of three months to three years.

(3) Where an offence referred to in paragraph 1 of this Article was committed by threat of murder or grievous bodily injury, the offender shall be punished by an imprisonment sentence of six months to five years.

(4) Anyone who commits an offence referred to in paragraphs 1 to 3 of this Article for another person, shall be punished by a sentence laid down for such an offence.

(5) If an offence referred to in paragraph 1 and paragraph 4 in conjunction with paragraph 1 of this Article was committed to the detriment of citizens, prosecution shall be initiated by a personal action at law.

TITLE THIRTY FIRST

CRIMINAL OFFENCES AGAINST THE JUDICIARY

Failure to Report Preparation of a Criminal Offence

Article 385

(1) Anyone who has information that preparation is underway for commission of a criminal offence punishable under law by an imprisonment sentence of five years or more, but fails to report it when such an offence could have still been prevented, and the offence is attempted or committed, shall be punished by a fine or imprisonment not exceeding one year.

(2) For failure to report the preparation of a criminal offence punishable under law by an imprisonment sentence of forty years, the offender shall be punished by an imprisonment sentence of three months to three years.

(3) Persons to whom the offender is a spouse, a partner in a durable customary marriage, direct blood relative, brother or sister, adoptant parent or adoptive 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 an offence referred to in paragraph 1 of this Article.

Failure to Report Criminal Offences and Offenders

Article 386

(1) Anyone who knows that a person has committed a criminal offence punishable under law by an imprisonment sentence of forty years or who knows that such a criminal offence has been committed but fails to report it before such a criminal offence and offender are detected, shall be punished by an imprisonment not exceeding two years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on an official or responsible person who knowingly fails to report the crime s/he has been informed about in the performance of his/her official duty, if it is a criminal offence punishable under law by imprisonment of five years or more.

(3) For failure to report a crime or offender referred to in paragraphs 1 and 2 of this Article exempted from sentence shall be persons to whom the offender is a spouse or a partner in a durable customary marriage, direct blood relative, brother or sister, adoptant parent or adoptive child, as well as a spouse to one of the above mentioned persons or a person living with one of such persons in a durable customary marriage, as well as a defence counsel, doctor or religious confessor of the offender.

Assistance to an Offender after the Commission of a Criminal Offence

Article 387

(1) Anyone who conceals the offender or assists the offender by hiding means or traces of a criminal offence, or assists him/her in any other manner to avoid detection, and who conceals a convicted person or takes any other measures with the intention to avoid the enforcement of an imposed sanction, a security measure, or committal to a correctional institution or reformatory, shall be punished by a fine or imprisonment not exceeding two years.

(2) Anyone who assists the perpetrator of an offence punishable under law by an imprisonment for a term exceeding five years, shall be punished by an imprisonment sentence of three months to five years.

(3) Anyone who assists the perpetrator of an offence punishable under law by an imprisonment sentence of forty years, shall be punished by an imprisonment sentence of one to eight years.

(4) The sentence imposed for a criminal offence referred to in paragraph 1 of this Article shall not be more severe in terms of type or duration than the sentence laid down for a criminal offence committed by a person who has been provided assistance.

(5) For offences referred to in paragraphs 1 to 3 of this Article exempted from sentence shall be persons to whom the offender is a spouse or a partner in a durable customary marriage, direct blood relative, brother or sister, adoptant parent or adoptive child, as well as a spouse to one of the above mentioned persons or a person living with one of such persons in a durable customary marriage.

False Reporting

Article 388

(1) Anyone who reports a person to have committed a criminal offence prosecuted *ex officio*, and who knows that person is not the offender of that crime, shall be punished by imprisonment of three months to three years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person who by planting traces of a criminal offence or in any other manner causes that a criminal proceedings is initiated for a criminal offence prosecuted *ex officio* against a person who s/he knows is not the offender of that criminal offence.

(3) Anyone who reports him/herself for having committed a criminal offence prosecuted *ex officio*, although s/he knows that s/he has not committed such a criminal offence, shall be punished by a fine or imprisonment not exceeding one year.

(4) The sentence referred to in paragraph 3 of this Article shall also be imposed on a person who reports that a criminal offence prosecuted *ex officio* has been committed, although s/he knows 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, misdemeanour or administrative procedure or any other procedure laid down by law, shall be punished by an imprisonment sentence not exceeding three years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a party who on the occasion 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) If a false testimony was given in criminal proceedings, the offender giving such a testimony shall be punished by an imprisonment sentence of three months to five years.

(4) Where due to an offence referred to in paragraph 3 of this Article particularly grave consequences have occurred for the accused, the offender shall be punished by an imprisonment sentence of one year to eight years.

(5) If the offender revokes the false testimony on his/her own free will before the final decision is passed, s/he shall be punished by a fine or imprisonment not exceeding three months, and may also be remitted of penalty.

Obstruction of Evidence

Article 390

(1) Anyone who makes, offers or promises a gift or other benefit to a witness or expert witness or other participant before the court or other state body or applies force or threat against him/her with the intent that the person affects the outcome of the proceedings by giving false testimony or not giving a testimony, shall be punished by imprisonment of six months to five years.

(2) Anyone who with the intent to prevent or impede evidence conceals, destroys, damages, or partially or completely makes unusable someone else's document or other objects that serve as evidence, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(3) The sentence referred to in paragraph 2 of this Article shall also be imposed on a person who removes, destroys, damages, moves or relocates a borderline stone, land registry mark or any other mark indicating ownership of real estate or right to use of water, or a person who with the same intention fraudulently places such a mark.

Violation of Confidentiality of Procedure

Article 391

(1) Anyone who discloses without authorization information obtained in a court, misdemeanor, administrative or other legally defined procedure, when such information may not be publicized under law or has been declared a secret by the decision of a court or other competent authority, shall be punished by a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person 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.

Riot of Persons Placed under Arrest

Article 392

(1) Persons who have been placed under arrest under law and who gather with the intention to free themselves by force, or to jointly attack persons entrusted with the duty of their supervision, or make such officers by force or threat of immediate force to do or fail to do something that is in breach to their duty, shall be punished by an imprisonment sentence not exceeding three years.

(2) The offender referred to in paragraph 1 of this Article who used force or threat, shall be punished by an imprisonment sentence of six months to five years.

Escape of Persons Placed under Arrest

Article 393

A person who has been placed under arrest under law who by use of force against another or by threatening to directly attack life and body of another escapes, shall be punished by an imprisonment sentence of three months to five years.

Enabling Escape of Persons Placed under Arrest

Article 394

(1) Anyone who by use of force, threat, deception or in some other manner, enables a person placed under arrest under law to escape, shall be punished by an imprisonment sentence of three months to five years.

(2) If an offence referred to in paragraph 1 of this Article was committed jointly by several persons or if escape of several persons was enabled, the offender shall be punished by an imprisonment sentence of one to eight years.

Failure to Enforce a Judicial Decision

Article 395

(1) A person in official capacity or a responsible person who refuses to enforce a legally-binding and enforceable judicial decision, shall be punished by a fine or imprisonment sentence not exceeding two years. (2) If the person referred to in paragraph 1 of this Article enforces a legally-binding and enforceable judicial decision, prosecution shall not be undertaken, and if undertaken, it shall be discontinued.

**Unlawful Enabling Another to Engage in a Profession,
Perform an Office, Duty, Affairs and Activities**

Article 396

Anyone who enables another to engage in a profession, perform an office, duty, affairs or activities, although s/he knew that such performance is prohibited to that person by a legally-binding decision imposing an appropriate security measure or protective measure or that such a ban took effect as a legal consequence of conviction, shall be punished by a fine or imprisonment not exceeding 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 imprisonment not exceeding 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 bodies or organizations entrusted with public authorizations, shall be punished by a fine or imprisonment not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed through media or other means of public information or other similar means or at a public meeting, the offender shall be punished by an imprisonment not exceeding three years.

Violent Behaviour

Article 399 Anyone who, by rude insults or maltreatment of others, 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, if done so in a group or if a person was inflicted a light bodily injury or a grave degradation of citizens was caused, shall be punished by an imprisonment sentence of three months to five years.

Conspiracy to Commit a Crime

Article 400

Anyone who conspires with another to commit a criminal offence punishable by an imprisonment sentence of five years or more, shall be punished by a fine or imprisonment not exceeding one year.

Criminal Enterprise

Article 401

(1) Anyone who organizes a group or other association with a view to commit criminal offences punishable by an imprisonment sentence of one year or more, shall be punished by imprisonment not exceeding three years.

(2) If an offence referred to in paragraph 1 of this Article refers to an association that aims to commit criminal offences punishable by an imprisonment sentence of five years or more, the mastermind of the association shall be punished by an imprisonment sentence of one to eight years, and a member of the association by an imprisonment not exceeding two years.

(3) If an offence referred to in paragraph 1 of this Article refers to an association that aims to commit criminal offences punishable by an imprisonment sentence of fifteen years, the mastermind of the association shall be punished by an imprisonment sentence of two to twelve years, and a member of the association by an imprisonment not exceeding three years.

(4) If an offence referred to in paragraph 1 of this Article refers to an association that aims to commit criminal offences punishable by an imprisonment sentence of twenty years or an imprisonment sentence of forty years, the mastermind of the association shall be punished by imprisonment for a minimum term of ten years or a imprisonment sentence of thirty years, and a member of the association by an imprisonment sentence of six months to five years.

(5) The mastermind of the association referred to in paragraphs 1 to 4 of this Article who by revealing the association or preventing in some other manner the commission of criminal offences for which the association was founded, shall be punished by an imprisonment sentence not exceeding three years, and may also be acquitted.

(6) A member of the association referred to in paragraphs 2 to 4 of this Article who reports the association before s/he as a member of the association or for the association has committed a criminal offence provided for in paragraphs 2 to 4 of this Article for which the association was founded, shall be punished by a fine or imprisonment not exceeding one year, and may also be remitted of penalty.

Manufacture and Acquisition of Weapons and Means Intended for Commission of Criminal Offences

Article 402

(1) Anyone who manufactures, procures or provides another with weapons, explosives, means required for their manufacture or poison that s/he knows are intended for the commission of a criminal offence, shall be punished by an imprisonment sentence of six months to five years.

(2) Anyone who manufactures or hands over to another means for breaking open and breaking and entering, although s/he knows that they are intended for commission of a criminal offence, shall be punished by a fine or imprisonment not exceeding one year.

Unlawful Keeping of Weapons and Explosive Substances

Article 403

(1) Anyone who without authorization manufactures, sells, procures, exchanges, carries or keeps firearms, ammunition or explosive substances, shall be punished by an imprisonment sentence of three months to three years.

(2) Whoever unauthorizedly keeps, carries, manufactures, repairs, processes, sells, procures, exchanges, transports or otherwise releases into circulation firearms, ammunition, explosive substances, fragmentation or gas weapons, whose possession is prohibited to the citizens, shall be punished by imprisonment of six months to five years.

(3) If the object referred to in paragraphs 1 and 2 of this Article represents a larger quantity of weapons or means or it is a weapon or other means of large destructive power, the offender shall be punished by an imprisonment sentence of one to eight years.

Participation in a Group Committing a Criminal Offence

Article 404

(1) Anyone who participates in a group that by joint action kills another, or inflicts to another a grievous bodily injury, commits arson, significantly damages property the value of which exceeds the amount of twenty thousand euro or commits other criminal offence punishable by an imprisonment sentence of five years or more, or that attempts to commit one of these offences, shall be punished for participation solely by an imprisonment sentence of three months to five years.

(2) The mastermind of the group committing a crime referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of one to eight years.

Illegal Crossing of the State Border and Smuggling of Persons

Article 405

(1) Anyone who without the required permission crosses or tries to cross the state border of SMN, under arms or by use of force, shall be punished by an imprisonment sentence not exceeding one year.

(2) Anyone who deals with illegal transfer of other persons across the border of SMN or who enables another for gain to illegally cross the border, or to illegally stay or transit, shall be punished by imprisonment of three months to five years. (3) Where an offence referred to in paragraph 2 of this Article was committed by several persons in an organized manner, abuse of office or in a manner that endangers the life or health of persons whose illegal border crossing, stay or transit is enabled or if a number of people is smuggled, the offender shall be punished by an imprisonment sentence of one to ten years.

(4) Means intended for or used for the commission of offences referred to in paragraphs 1 to 3 of this Article shall be confiscated.

Abuse of the Help and Danger Sign

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 the measures of state bodies, fire prevention or other competent organization to be taken or who causes disorder in traffic, shall be punished by a fine or imprisonment not exceeding 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 imprisonment not exceeding three years.

(2) Whoever without authorization sells lottery tickets or accepts payment for games of chance organized abroad, shall be punished by a fine or imprisonment not exceeding two years.

(3) A person who organizes games of chance or participates in a game referred to in paragraph 1 of this Article using deception, shall be punished by an imprisonment sentence of three months to five years.

(4) Means intended or used for commission of offences referred to in paragraphs 1 to 3 of this Article, as well as money and other objects used in games of chance, shall be seized.

Unlicensed Practice of a Specific Profession

Article 408

Anyone who without an authorisation and for a fee engages in a profession for which under law or other regulations enacted under law require a permit of a competent authority or entity is needed, shall be punished by a fine or imprisonment not exceeding one year.

Unauthorized Ownership and Use of a Radio and Television Station

Article 409

Anyone who owns or uses a radio or television station in breach of regulations on communication systems, shall be punished by a fine or imprisonment not exceeding one year.

Desecration of a 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, shall be punished by a fine or imprisonment not exceeding one year.

Desecration of a Grave

Article 411

(1) Anyone who without authorization digs out, demolishes, damages or significantly desecrates a grave or other place where the deceased are buried, shall be punished by a fine or imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person who without authorization destroys, damages or removes or significantly desecrates a gravestone or other memorial to the deceased.

(3) If the elements of a more serious criminal offence were satisfied through offences referred to in paragraphs 1 and 2 of this Article, the offender shall be punished for such an offence.

TITLE THIRTY THREE

CRIMINAL OFFENCES AGAINST LEGAL PROCEDURES

Falsifying a Document

Article 412

(1) Anyone who creates a false document or issues a false document or changes a real document with the intention to use it as a real one or whoever uses such false or untruthful document as a real one or obtains it for use, shall be punished by an imprisonment sentence not exceeding three years.

(2) If the offence referred to in paragraph 1 of this Article was committed with reference to a public document, a will, bill of exchange, cheque, public or official records or other records that must be kept under law, the offender shall be punished by an imprisonment sentence of three months to five years.

(3) An attempted offence as of paragraph 1 of this Article shall be punished.

Special Cases of Falsifying Documents

Article 413

The following persons shall be deemed to be falsifying documents and shall be punished pursuant to Article 412 of this Code:

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/her signature,

2) anyone who deceives another with regard to the content of a document so as to make another affix his/her signature on that document believing that s/he is signing another document or under a different content,

3) anyone who issues a document on behalf of another without his/her authorization or on behalf of a person who does not exist,

4) anyone who, as an issuer of a document, places next to his/her signature the position, rank or title although s/he holds no such position, rank or title, and 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.

Falsifying an Official Document

Article 414

(1) A person in official capacity who enters false data or fails to enter important data in an official document, record or file, or who certifies with his/her signature or official seal an official document, record or file with false content, or who with his/her signature or official seal enables another to produce an official document, record or file with false content, shall be punished by an imprisonment sentence of three months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on an official who uses a false official document, record or file as if they were truthful, or who destroys, conceals or significantly damages or makes useless in another manner an official document, record or file.

(3) A responsible person in a business organisation, institution or other entity who commits an offence referred to in paragraphs 1 and 2 of this Article, shall be punished by a sentence laid down 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 an imprisonment sentence of three months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person who uses such document, record or register although s/he knows they are false.

TITLE THIRTY FOUR

CRIMINAL OFFENCES AGAINST OFFICIAL DUTY

Abuse of an Official Position

Article 416

(1) A person in official capacity who obtains for him/herself any benefit, causes damage to another or gravely violates the rights of another by abusing his/her official position or authorizations, overstepping the limits of his/her official authorization or omitting to perform his/her official duty, shall be punished by an imprisonment sentence of six months to five years.

(2) Where material benefit exceeding three thousand euro was obtained through offences referred to in paragraph 1 of this Article, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If the value of acquired material benefit exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

(4) A responsible person in a business organisation, institution or other entity who commits an offence referred to in paragraphs 1 to 3 of this Article, shall be punished by a sentence laid down for such offences.

Unconscientious Performance of Office

Article 417

(1) An official who by violation of law or other regulations or general acts, by failure to do supervision or in some other manner obviously unconscientiously acts in the performance of his/her office, although he was aware or was obliged to and had to be aware that such acts may cause serious violation of rights of another or damage to property of another, when such a violation or damage exceeding the amount of three thousand euro actually takes place, shall be punished by a fine or imprisonment not exceeding three years.

(2) Where offences referred to in paragraph 1 of this Article caused a grave violation of rights of another or property damage exceeding the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of six months to five years.

(3) A responsible person in an institution or other entity, with the exception of those engaged in a business activity, who commits an offence referred to in paragraphs 1 to 2 of this Article, shall be punished by a sentence laid down for such an offence.

Unlawful Collection and Payment

Article 418

An official who collects money from another who is not obliged to pay or who charges another more than s/he has to pay, or who when paying another or handing over an item to another pays or hands over less than s/he is obliged to, shall be punished by a fine or imprisonment not exceeding three years.

Fraud in the Conduct of an Official Duty

Article 419

(1) An official who in the performance of his/her office and with the intention of acquiring for himself or another an illicit material benefit by submitting false statements of account or who in some other manner misleads an authorized person to make an unlawful payment, shall be punished by an imprisonment sentence of six months to five years.

(2) If material benefit acquired as a result of an offence referred to in paragraph 1 of this Article exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If an illicit material benefit acquired through an offence referred to in paragraph 1 of this Article exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

(4) A responsible person in a business organisation, institution or other entity, who commits offences referred to in paragraphs 1 to 3 of this Article shall be punished by a sentence laid down for such an offence.

Embezzlement

Article 420

(1) A person who, with the intention of acquiring illicit material benefit for himself/herself or another, appropriates money, securities or other movable articles entrusted to him/her by virtue of his/her office or work in a state body, business organisation, institution or other entity or store, shall be punished by an imprisonment sentence of six months to five years.

(2) If material benefit acquired through an offence referred to in paragraph 1 of this Article exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If material benefit acquired through an offence referred to in paragraph 1 of this Article exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Unauthorized Use

Article 421

A person who makes an unauthorized use of money, securities or other movable articles entrusted to him/her by virtue of office or work in a state body, business organisation, institution, or other entity or store or without authorization confers such things to another for use, shall be punished by an imprisonment sentence of three months to three years.

Trading in Influence

Article 422

(1) Anyone who accepts a reward or any other benefit for using his/her official or social position or influence to intercede that an official act be or not be performed, shall be punished by an imprisonment sentence of three months to three years.

(2) Anyone who gives, offers or promises any reward or other benefit to an official or other person in order for that person to use his/her official or social position or influence to intercede that an official act be or not be performed, shall be punished by an imprisonment sentence not exceeding three years.

(3) Anyone who by using his/her official or social position or influence, intercedes that an official act be performed that should not be performed or that an official act not be performed that should be performed, shall be punished by an imprisonment sentence of six months to five years.

(4) Anyone who gives, offers or promises a reward or any other benefit to an official or another person so as to use his/her official or social position or influence and intercede that an official act be performed that should not be performed or that an official act not be performed that should be performed, shall be punished by an imprisonment sentence of three months to five years.

(5) If a reward or any other benefit has been received for trading in influence referred to in paragraph 3 of this Article, the offender shall be punished by an imprisonment sentence of one to eight years.

(6) Reward and material benefit shall be seized.

Passive Bribery

Article 423

(1) A person in official capacity who requests or receives a gift or any other benefit, or who accepts a promise of gift or any benefit for himself/herself or another for agreeing to perform within the limits of his/her official authorizations an official act s/he should not perform, or not to perform an official act which s/he should perform, shall be punished by an imprisonment sentence of two to twelve years.

(2) A person in official capacity who request or receives a gift or other benefit or who accepts a promise of gift or any other benefit for him/herself or another for agreeing to perform within the limits of his/her official authorizations an official act s/he should perform, or not to perform an official act s/he should otherwise not perform, shall be punished by an imprisonment sentence of two to eight years.

(3) A person in official capacity who commits an offence referred to in paragraphs 1 or 2 of this Article in relation to the detection of a criminal offence, initiating or conducting a criminal proceedings, imposition or enforcement of a criminal sanction, shall be punished by an imprisonment sentence of three to fifteen years.

(4) An official who requests or accepts a gift or other benefit after having performed or omitted to perform an official act referred to in paragraphs 1, 2 and 3 of this Article or in conjunction with it, shall be punished by an imprisonment sentence of three months to three years.

(5) A foreign official who commits an offence referred to in paragraphs 1, 2, 3 and 4 of this Article, shall be punished by a sentence laid down for such an offence.

(6) A responsible person in a business organization, institution or other entity who commits an offence referred to in paragraphs 1, 2 and 4 of this Article, shall be punished by a sentence laid down for such an offence.

(7) Accepted gift and material benefit shall be seized.

Active Bribery

Article 424

(1) Anyone who gives, offers or promises a gift or other gain to an official who agrees to perform an official act within the limits of his/her official authorizations that s/he ought not to perform or to omit to perform an official act s/he ought to perform, or a person who mediates in such bribery of an official, shall be punished by an imprisonment sentence of six months to five years.

(2) Anyone who gives, offers or promises a gift or other gain to an official who agrees to perform an official act within the limits of his/her official authorizations that s/he is obliged to perform or to omit to perform an official act s/he should not perform or who mediates in such a bribery of an official, shall be punished by an imprisonment sentence not exceeding three years.

(3) Provisions of paragraphs 1 and 2 of this Article shall also be applied when bribe was given, offered or promised to a foreign official.

(4) The perpetrator of an offence referred to in paragraphs 1, 2 and 3 of this Article who had reported the criminal offence before s/he found out that the crime was detected, may be remitted of penalty.

(5) Provisions of paragraphs 1, 2 and 4 of this Article shall also be applied when bribe was given, offered or promised to a responsible person of a business organisation, institution or other entity.

(6) A gift or other benefit seized from a person who has received a bribe may be returned to the person giving the bribe in cases referred to in paragraph 4 of this Article.

Disclosure of an Official Secret

Article 425

(1) An official who without authorization communicates, conveys or makes available in some other manner to another data constituting an official secret, or who obtains such data with the intention of conveying it to an unauthorized person, shall be punished by an imprisonment sentence of three months to five years.

(2) If an offence referred to in paragraph 1 of this Article has been committed out of greed in respect of particularly classified data or in view of their disclosure or use abroad, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If an offence referred to in paragraph 1 of this Article has been committed out of negligence, the offender shall be punished by an imprisonment sentence not exceeding three years.

(4) An official secret is deemed to be data or documents that, under law, other regulation or a decision of a competent authority passed under law, have been proclaimed an official secret and whose disclosure would cause or could cause detrimental consequences to the service.

(5) Provisions of paragraphs 1 to 4 of this Article shall also apply to a person who has disclosed an official secret after his capacity of an official ceased.

TITLE THIRTY FIVE
CRIMINAL OFFENCES AGAINST HUMANITY AND
RIGHTS GUARANTEED UNDER INTERNATIONAL LAW

Genocide

Article 426

Anyone who with the intention of partially or completely destroying a national, ethnic, racial or religious group issues orders for commission of murders or infliction of grievous bodily injuries or serious destruction of physical or mental health of group members or placement of the group under such living conditions so 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 one of the said crimes with the same intention, shall be punished by an imprisonment sentence for a minimum term of five years or a imprisonment sentence of forty years.

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: murders; placing the population or its part under such living conditions so 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 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 one of the said offences, shall be punished by imprisonment for a minimum term of five years or an imprisonment sentence of forty years.

War Crime against Civilian Population

Article 428

(1) Anyone who in breaching of the rules of international law during a 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 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 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 unallowed 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; large scale illegal confiscation, appropriation or destruction of property of civilian population 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 some of the said offences, shall be punished by an imprisonment sentence for a minimum term of five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a person who by breaching the rules of international law during a war, armed conflict or occupation orders: 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 some 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 an imprisonment sentence for a minimum term of ten years or an imprisonment sentence of forty years.

(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 an imprisonment sentence for a minimum term of five years.

(5) Anyone who threatens to commit one or more offences referred to in paragraphs 1 and 2 of this Article, shall be punished by an imprisonment sentence of six months to five years.

War Crime against the Wounded and Sick

Article 429

(1) Anyone who in breaching the rules of international law during a 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 some of the said offences, shall be punished by an imprisonment sentence for a minimum term of five years.

(2) Anyone who during a war, armed conflict or occupation orders murder against civilian population or commits such a crime, shall be punished by an imprisonment for a minimum term of ten years or an imprisonment sentence of forty years.

War Crime against the Prisoners of War

Article 430

(1) Anyone who in violation 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 one of the said offences, shall be punished by an imprisonment for a minimum term of five years.

(2) Anyone who during a war, armed conflict, or occupation orders murders against civilian population or commits such a crime, shall be punished by an imprisonment sentence for a minimum term of ten years or to imprisonment of forty years.

Organization and Instigation to Commit Genocide and War Crimes

Article 431

(1) Anyone who conspires with another to commit a criminal offence referred to in Articles 426 to 430 of this Code, shall be punished by an imprisonment sentence of three months to three years.

(2) Anyone who organizes a group in view of committing criminal offences referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of five to fifteen years.

(3) Anyone who becomes a member of the group referred to in paragraph 1 of this Article shall be punished by an imprisonment sentence of one to eight years.

(4) The perpetrator of offences referred to in paragraphs 1 and 3 of this Article who discloses the conspiracy or group before s/he has committed a criminal offence as its member or on behalf of the group, or a person committing an offence referred to in paragraph 2 of this Article who prevents the commission of offences referred to in paragraph 1 of this Article may be punished more leniently.

(5) Anyone who calls for or incites to the commission of criminal offences referred to in Articles 426 to 430 of this Code, shall be punished by an imprisonment sentence of one to ten years.

Use of Forbidden Means of Warfare

Article 432

(1) Anyone who during a war or armed conflict orders the use of means of warfare or warfare method forbidden under the rules of international law, or uses them him/herself, shall be punished by an imprisonment sentence of two to ten years.

(2) Where through offences referred to in paragraph 1 of this Article several persons have died, the offender shall be punished by an imprisonment sentence for a minimum term of five years or to an imprisonment sentence of forty years.

(3) Anyone who calls for or prepares the use of weapons referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of six months to five years.

Unlawful Manufacture of Weapons whose Use is Forbidden

Article 433

(1) Anyone who in breach of law, other regulations or rules of international law, manufactures, purchases, sells, imports, exports or in some other manner obtains and provides another with, keeps or transports weapons the manufacture or use of which is forbidden or

materials required for their manufacture, shall be punished by an imprisonment sentence of one to five years.

(2) An official or responsible person who orders or enables a legal person to engage in activities referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of one to eight years.

Unlawful Killing and Wounding of the Enemy

Article 434

(1) Anyone who by breaching the rules of international law during a war or armed conflict, kills or wounds an enemy who has laid down his/her weapons or has unconditionally surrendered or was left without any means of defence, shall be punished by an imprisonment sentence of one to fifteen years.

(2) Where the murder referred to in paragraph 1 of this Article has been committed in an insidious manner or out of base motives, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

(3) Where the murder referred to in paragraph 1 of this Article has been done in a cruel manner or out of gain or if several persons were murdered, the offender shall be punished by an imprisonment sentence for a minimum term of ten years or by an imprisonment sentence of forty years.

(4) The sentence referred to in paragraph 3 of this Article shall also be imposed on a person who by breaching the rules of international law during a war or armed conflict orders that there must be no enemy survivors or combats enemy on that basis.

Unlawful Appropriation of Items from the Killed

Article 435

(1) Anyone who orders unlawful appropriation of items from the dead or wounded on battlefield or who performs such an appropriation, shall be punished by an imprisonment sentence of one to five years.

(2) Where an offence referred to in paragraph 1 of this Article has been performed in a cruel manner or if the value of appropriated items exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Where the value of items referred to in paragraph 1 of this Article exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Violating the Protection Granted to Bearers of Flags of Truce

Article 436

Anyone who by breaching the rules of international law during a war or armed conflict insults, ill-treats or holds a Bearer of Flag of Truce or his/her escort or who hinders their return, or in some other manner violates their inviolability or orders the commission of such offences, shall be punished by an imprisonment sentence of six months to five years.

Cruel Treatment of the Wounded, Sick

and Prisoners of War

Article 437

Anyone who by breaching the rules of international law, cruelly treats the wounded, sick or prisoners of war, or who prevents them or deprives them from using rights they are vested in according to such rules or orders the commission of such offences, shall be punished by an imprisonment sentence of six months to five years.

Unjustified Delay of Repatriation of Prisoners of War

Article 438

Anyone who, by breaching the rules of international law, after the war or armed conflict ended, unjustifiably delays repatriation or prisoners of war or civilians, or who orders such delay, shall be punished by an imprisonment sentence of six months to five years.

Destruction of Cultural Assets

Article 439

(1) Anyone who, by breaching the rules of international law during a war or armed conflict destroys cultural or historical monuments or other cultural assets or religious structures or institutions or facilities intended for science, art, education or humanitarian goals or orders commission of such offences, shall be punished by an imprisonment sentence of three to fifteen years.

(2) Where an action referred to in paragraph 1 of this Article resulted in the destruction of a facility that enjoys special protection of international law as a cultural asset, the offender shall be punished by an imprisonment sentence of five to fifteen years.

**Failure to Take Measures to Prevent Criminal Offences against Humanity
and Other Rights Protected under International Law**

Article 440

(1) A military commander or a person performing this function who, knowing that forces s/he is commanding or controlling are preparing or have commenced the commission of criminal offences referred to in Articles 426 to 430, Article 432, Art. 434 to 437 and Article 439 of this Code, fails to take necessary measures that s/he could have taken and was obliged to take for the prevention of commission of offences, and this results in actual commission of that offence, shall be punished by a sentence laid down for such an offence.

(2) Another superior who, knowing that his/her subordinates are preparing or have commenced the commission of criminal offences referred to in Art. 426 to 430, Article 432, Art. 434 to 437 and Article 439 of this Code, in the performance of affairs under his/her supervision, fails to take necessary measures that s/he could have taken and was obliged to take in order to prevent the commission of offences, and this results in commission of that offence, shall be punished by a sentence laid down for such an offence.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed out of negligence, the offender shall be punished by an imprisonment sentence not exceeding 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 corresponding to them, or other internationally recognized signs used to mark certain facilities for their protection against military operations or orders that such offences be committed, shall be punished by an imprisonment sentence not exceeding three years

(2) Anyone who commits an offence referred to in paragraph 1 of this Article in the zone of war operations, shall be punished by an imprisonment sentence of six months to five years.

Aggressive War

Article 442

(1) Anyone who calls for or incites to aggressive war, shall be punished by an imprisonment sentence of two to twelve years.

(2) Anyone who orders the waging of aggressive war, shall be punished by an imprisonment sentence for a minimum term of ten years or an imprisonment sentence of forty years.

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 capacity violates fundamental human rights and freedoms guaranteed by generally recognized rules of international law and international treaties ratified by SMN, shall be punished by an imprisonment sentence of six months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on persons who persecute organizations or individuals for their efforts to ensure equality of people.

(3) Anyone who spreads ideas about the superiority of one race over another, or promotes racial hatred, or incites to racial discrimination, shall be punished by an imprisonment sentence of three months to three years.

Trafficking in Persons

Article 444

(1) Anyone who by force or threat, misleading or keeping mislead, by abuse of authorizations, trust, relation of dependency, difficult position of another person or by keeping back personal documents or by giving or receiving money or other benefit in view of obtaining consent of a person having control over another: recruits, transports, transfers, surrenders, sells, buys, mediates in sale, conceals or keeps another person for the purpose of forced labour, submission to servitude, commission of criminal activity, prostitution or mendicity, pornographic use, taking away a body part for transplantation or for use in armed conflicts shall be punished by an imprisonment sentence of one to ten years.

(2) If the offence referred to in paragraph 1 of this Article was committed against a juvenile, the offender shall be punished by an imprisonment sentence laid down for that offence, even if there was no force, threat or any other of the said methods of commission.

(3) If the offence referred to in paragraph 1 of this Article was committed against a juvenile, the offender shall be punished by an imprisonment sentence for a minimum term of three years.

(4) If offences referred to in paragraphs 1 and 3 of this Article have caused grievous bodily injuries, the offender shall be punished by an imprisonment sentence of one year to twelve years.

(5) If offences referred to in paragraphs 1 and 3 of this Article have caused death of one person or more, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

(6) Anyone who deals with committing offences referred to in paragraphs 1 to 3 of this Article or participates in their organised commission together with several other persons, shall be punished by an imprisonment sentence for a minimum term of five years.

Trafficking in Children for Adoption

Article 445

(1) Anyone who abducts a person who has not reached the age of fourteen for adoption in breach of valid regulations or whoever 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 transports, provides accommodation for or conceals such a person, shall be punished by an imprisonment sentence of one to five years.

(2) Anyone who deals with activities referred to in paragraph 1 of this Article or participates in their organized commission together with several other persons, shall be punished by an imprisonment for a minimum term of three years.

Submission to Slavery and Transportation of Enslaved Persons

Article 446

(1) Anyone who by breaching the rules of international law submits another person to slavery or other similar relation or keeps another person in such a relation, or buys, sells, surrenders to another person or mediates in buying, selling or surrendering of such a person or incites another person to sell his/her own freedom or freedom of persons s/he supports or cares for, shall be punished by an imprisonment sentence of one to ten years.

(2) Anyone who transports persons in the relation of slavery or other similar relation from one country to another shall be punished by an imprisonment sentence of six months to five years.

(3) For offences referred to in paragraphs 1 and 2 of this Article committed against a juvenile, the offender shall be punished by an imprisonment sentence of five to fifteen years.

International Terrorism

Article 447

(1) Anyone who, with the intention of causing harm to a foreign state or international organization commits abduction of a person or other act of violence, causes explosion or fire or takes other generally dangerous acts or threats by use of nuclear, chemical, bacteriological or other similar means, shall be punished by an imprisonment sentence of three to fifteen years.

(2) Where through an offence referred to in paragraph 1 of this Article one or more persons died, the offender shall be punished by an imprisonment sentence of five to fifteen years.

(3) If in the commission of an offence referred to in paragraph 1 of this Article the offender has committed murder with guilty mind, s/he shall be punished by an imprisonment sentence for a minimum term of ten years or to imprisonment of forty years.

Taking Hostages

Article 448

(1) Anyone who commits abduction of a person or threats to kill that person, hurt or keep as hostage with the intention of coercing a state or international organization to do or not to do something, shall be punished by an imprisonment sentence of two to ten years.

(2) The perpetrator of an offence referred to in paragraph 1 of this Article who frees the hostage of his/her own free will, although the purpose of the abduction has not been reached, may be punished more leniently.

(3) Where through an offence referred to in paragraph 1 of this Article the abducted person died, the offender shall be punished by an imprisonment sentence of three to fifteen years.

(4) Where during the commission of offences referred to in paragraph 1 of this Article, the offender murdered the hostage with guilty mind, s/he shall be punished by an imprisonment sentence for a minimum term of ten years or an imprisonment sentence of forty years.

Financing of Terrorism

Article 449

(1) Anyone who provides or raises funds intended for financing of criminal offences referred to in Art. 365, 447 and 448 of this Code, shall be punished by an imprisonment sentence of one to ten years.

(2) Funds referred to in paragraph 1 of this Article shall be seized.

TITLE THIRTY SIX

CRIMINAL OFFENCES AGAINST THE ARMY OF SERBIA AND MONTENEGRO

Evasion of Military Service

Article 450

(1) Anyone who, without justifiable reason, fails to report for meeting a conscription obligation, for the conscript service duty or duty of reserve military staff, or avoids to receive a call-up notice to meet such an obligation, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Anyone who is hiding so as to avoid his/her duty referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of three months to three years.

(3) Anyone who leaves the country or stays abroad so as to avoid his/her military duty referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of one to eight years.

(4) Anyone who calls for several persons or incites them to commit offences referred to in paragraphs 1 to 3 of this Article, shall be punished for an offence referred to in paragraph 1 by an imprisonment sentence not exceeding three years, and for an offence referred to in paragraphs 2 and 3 by an imprisonment sentence of two to twelve years.

(5) The perpetrator of offences referred to in paragraphs 1 to 3 of this Article who voluntarily report him/herself to a competent state body may be remitted of penalty.

Evasion of Inventory-taking and Inspection

Article 451

(1) Anyone who, in breach of an obligation laid down by law and without justified reason, fails to observe an invitation of an authority competent for inventory-taking or inspection, or opposes 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 imprisonment not exceeding one year.

Default of a Material Obligation

Article 452

(1) Anyone who, in breach of an obligation laid down by law and without justified reason, fails to bring material resources or livestock to a determined location, at a certain time and in the condition that makes them useful for the intended purpose, shall be punished by a fine or imprisonment sentence not exceeding one year.

(2) Where an offence referred to in paragraph 1 of this Article was committed during imminent war danger, state of war, armed conflict or state of emergency, the offender shall be punished by an imprisonment sentence of six months to five years.

Evasion of Military Service by Self-disabling or Deception

Article 453

(1) Anyone who, with the intention to evade military service or be deployed to an easier duty, hurts him/herself or temporarily disables him/herself for military service in some other manner, or allows another to temporarily disable him/her, as well as anyone who temporarily disables another with or without the permission of another with the same intention, shall be punished by an imprisonment sentence of three months to five years.

(2) If the commission of offences referred to in paragraph 1 of this Article results in permanent disability for military service, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Anyone who, with the intention referred to in paragraph 1 of this Article, simulates an illness, or uses for himself or another a false document, or acts in another fraudulent manner, shall be punished by an imprisonment sentence of three months to five years.

Unlawful Exemption from Military Service

Article 454

Anyone who, by abuse of his/her position or authorizations, makes a military person or a person subject to military duty exempted from duty or deployed to an easier duty, shall be punished by an imprisonment sentence of six months to five years.

Arbitrary Leave and Desertion from the Army of Serbia and Montenegro

Article 455

(1) A military person who arbitrarily leaves his/her unit or service for a minimum period of five days, or for a shorter period of time if s/he takes several leaves during one year or arbitrarily leaves his/her unit or service during the performance of an important task or the increased level of combat readiness, shall be punished by a fine or imprisonment not exceeding one year.

(2) A military person who is hiding so as to avoid military service or who arbitrarily leaves his/her unit or service for more than thirty days, shall be punished by an imprisonment sentence of three months to three years.

(3) A military person who leaves the country or stays abroad so as to avoid military service, shall be punished by an imprisonment sentence of one to eight years.

(4) A military person who prepares to escape abroad so as to avoid military service, shall be punished by an imprisonment sentence of three months to three years.

(5) Anyone who calls for or incites several persons to commit an offence referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence of one to eight years.

(6) Anyone who calls for or incites several persons to commit offences referred to in paragraphs 2 and 3 of this Article, shall be punished by an imprisonment sentence of two to twelve years.

(7) The perpetrator of an offence referred to in paragraphs 2 and 3 of this Article who voluntarily reports him/herself to a competent state body in view of performing his/her military service may be punished more leniently.

Failure and Refusal to Execute an Order

Article 456

(1) A military person who fails to execute or refuses to execute an order of his/her superior in relation to the service, and such failure or refusal results in serious detrimental consequences for the service or serious threat to it, shall be punished by an imprisonment sentence of three months to three years.

(2) Where through an offence referred to in paragraph 1 of this Article grave consequences for the military service occurred, or the order has been related to the receipt and use of weapons, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Where an offence referred to in paragraphs 1 and 2 of this Article was committed out of negligence, the offender shall be punished for an offence referred to in paragraph 1 by a fine or imprisonment not exceeding one year, and for an offence referred to in paragraph 2 by an imprisonment sentence of three months to three years.

Resistance to a 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 and refuses to execute it, or refuses to discharge his/her duty, shall be punished by an imprisonment sentence of three months to three years.

(2) If the offence referred to in paragraph 1 of this Article has been committed in an organized manner, the offender shall be punished by an imprisonment sentence of one to five years.

(3) If the offence referred to in paragraphs 1 and 2 of this Article was committed by use of weapons, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) A military person who while committing an offence referred to in paragraphs 1 to 3 of this Article commits negligent manslaughter, shall be punished by an imprisonment sentence of two to ten years.

(5) A person organizing and serving in the capacity of a mastermind for offences referred to in paragraph 2 of this Article, shall be punished by an imprisonment sentence of two to ten years.

(6) A person preparing for an offence referred to in paragraph 2 of this Article, shall be punished by an imprisonment of three months to three years.

(7) A military superior who, within the limits of his/her powers, in the event of offences referred to in paragraphs 1 to 4 of this Article fails to take measures that are provided for, ordered or obviously necessary for the restoration of order, shall be punished by an imprisonment sentence of one to five years.

Resistance to a Military Performing Special Military Services

Article 458

Anyone who resists to a military person who performs sentry, patrol, duty, guard or other similar services or disobeys his/her call or fails to obey or refuses to execute his/her order, and such resistance or disobedience results in serious detrimental consequences for the service, or serious danger for the service, shall be punished by an imprisonment sentence of three months to three years.

Coercion against a Military Person in the Conduct of an Official Duty

Article 459

(1) Anyone who by force or threat of immediate use of force prevents a military person from the conduct of an official duty, or compels him/her in the same manner to act in breach of his/her official duty, shall be punished by an imprisonment sentence of three months to three years.

(2) If the commission of offences referred to in paragraph 1 of this Article resulted in grave consequences for the service, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) An attempted offence as of paragraph 1 of this Article shall be punished.

Assault against a Military Person on Duty

Article 460

(1) Anyone who assaults or threatens to assault a military person on duty, shall be punished by an imprisonment sentence of three months to three years.

(2) Where during commission of offences referred to in paragraph 1 of this Article, the offender has inflicted a light bodily injury to the military person or the offender threatens to use weapons, s/he shall be punished by an imprisonment sentence of three months to five years.

(3) Where during commission of offences referred to in paragraph 1 of this Article, the offender has inflicted a grievous bodily injury to the military person or has caused grave consequences for the service out of negligence, s/he shall be punished by an imprisonment sentence of one to eight years.

(4) Where during commission of offences referred to in paragraph 1 of this Article, the offender has committed negligent manslaughter against a military person, s/he shall be punished by an imprisonment sentence of two to ten years.

Remission of Penalty for Offences referred to in Art. 456 to 460

Article 461

If the perpetrator of an offence referred to in Art. 456 and 457 paragraph 1, 458 and 459 paragraphs 1 and 2 and 460 paragraphs 1 and 2 of this Code has been provoked by unlawful or rude action of a military person, s/he may be remitted of penalty.

Ill-treatment of a Subordinate or Junior

Article 462

(1) A military superior who during his/her duty or in relation to it ill-treats a subordinate or junior or treats them in a manner offensive to human dignity, shall be punished by an imprisonment sentence of three months to three years.

(2) Where through an offence referred to in paragraph 1 of this Article a grievous bodily injury or serious harm to health of a subordinate or junior has occurred or if the offence has been committed against several persons, the offender shall be punished by an imprisonment sentence of one to five years.

Violation of a Special Military Service

Article 463

(1) A military person who acts in breach of regulations on sentry, patrol, duty, guard or other similar service, and it results in grave detrimental consequences for the service or serious danger for the service, shall be punished by an imprisonment sentence of three months to three years.

(2) If the offence referred to in paragraph 1 of this Article has been committed close to a weapons, ammunition or explosive substances depots, or close to any other important facility, the offender shall be punished by an imprisonment sentence of three months to five years.

(3) Where through an offence referred to in paragraphs 1 and 2 of this Article a grievous bodily injury, or property damage exceeding the amount of forty thousand euro or other grave detrimental consequences have occurred, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Where through an offence referred to in paragraphs 1 and 2 of this Article the death of one or more persons occurred, the offender shall be punished by an imprisonment sentence of two to twelve years.

(5) If the offences referred to in paragraphs 1 to 4 of this Article have been committed out of negligence, the offender shall be punished for the offence referred to in paragraph 1 by a fine or imprisonment not exceeding one year, for the offence referred to in paragraph 2 by a fine or imprisonment sentence not exceeding two years, for the offence referred to in paragraph 3 by an imprisonment sentence of three months to three years and for the offence referred to in paragraph 4 by an imprisonment sentence of one to eight years.

Violation of State Border Security

Article 464

(1) A military person or an official who while performing his/her duty at the state border acts in breach of the regulations on state border guard, and this results in serious detrimental consequences, or serious danger for the service, shall be punished by an imprisonment sentence of three months to five years.

(2) Where an offence referred to in paragraph 1 of this Article was committed during the exercise of duties under special circumstances or the offence resulted in grievous bodily injury or large-scale property damage or other serious consequences occurred, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) Where an offence referred to in paragraph 1 of this Article has resulted in death of one or more persons, the offender shall be punished by an imprisonment sentence of two to twelve years.

(4) If the offence referred to in paragraph 1 of this Article has been committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding one year.

(5) If the offence referred to in paragraph 4 of this Article has resulted in the consequence referred to in paragraph 2 of this Article, the offender shall be punished by an imprisonment sentence of three months to three years, and if it has resulted in the consequence referred to in paragraph 3 of this Article, the offender shall be punished by an imprisonment sentence of one to eight years.

Submission of False Official Reports

Article 465

(1) A military person who officially reports to his/her superior, orally or in writing, false data important for the service or omits an important fact, or forwards such a report although s/he knows data therein are false, and this results in grave detrimental consequences or serious danger for the service, shall be punished by an imprisonment sentence of three months to three years.

(2) If the offence referred to in paragraph 1 of this Article has been committed by submitting a report of utmost significance or has resulted in grave consequences, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If the offence referred to in paragraphs 1 and 2 of this Article has been committed out of negligence, the offender shall be punished for the offence referred to in paragraph 1 by a fine or imprisonment sentence not exceeding one year, and for the offence referred to in paragraph 2 by an imprisonment sentence of three months to three years.

Failure to Take Measures for the Security of a Military Unit

Article 466

(1) A military commander who fails to take measures within his/her competence that are provided for, ordered or other measures obviously necessary to ensure the security of the unit, protection of life and health of people entrusted to him/her, security and maintenance of facilities, objects and resources serving for combat readiness, regular provisions of food or military equipment or keeping and care of livestock, or timely and diligently restoration work or security of facilities entrusted to him/her, thus endangering the life of people or seriously endangering the health of people or property exceeding the amount of forty thousand euro, shall be punished by an imprisonment sentence of six months to five years.

(2) Where through an offence referred to in paragraph 1 of this Article a grievous bodily injury or large scale damage to property, or other grave consequences occur, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If an offence referred to in paragraph 1 of this Article result in the death of one or more persons, the offender shall be punished by an imprisonment sentence of two to twelve years.

(4) If an offence referred to in paragraph 1 of this Article has been committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding two years.

(5) Where an offence referred to in paragraph 4 of this Article resulted in the consequence referred to in paragraph 2 of this Article, the offender shall be punished by an imprisonment sentence of three months to three years, and if it resulted in the consequence referred to in paragraph 3 of this Article, the offender shall be punished by an imprisonment sentence of one to eight years.

Unconscientious Manufacture and Acceptance of Weapons and Other Military Equipment

Article 467

(1) A military or other 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/her service or duty entrusted to him/her, and as a result of this, weapons, ammunition, or other military equipment is not manufactured in time or are not in compliance with the required quality, shall be punished by an imprisonment sentence of three months to three years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a military or other person who by unconscientious discharge of duty accepts weapons or other military equipment that are not in compliance with the terms or the contract.

(3) Where through offences referred to in paragraphs 1 and 2 of this Article grave consequences occur, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Where the offences referred to in paragraphs 1 and 2 of this Article have been committed out of negligence, the offender shall be punished by a fine or imprisonment not exceeding one year.

(5) If the offences referred to in paragraph 4 of this Article result in the consequence referred to in paragraph 3 of this Article, the offender shall be punished by an imprisonment sentence of three months to three years.

Improper Care of Entrusted Weapons

Article 468

(1) Anyone who fails to observe regulations on keeping, storing or handling the entrusted weapons, ammunition or explosives owned by the military unit or institution, thus causing their large scale damage, destruction or disappearance, shall be punished by an imprisonment sentence of three months to three years.

(2) The keeper of the depot of weapons, ammunition, explosives, and other combat means who fails to take measures for their security and maintenance, which results in extensive damage, destruction or disappearance of such combat means, shall be punished by an imprisonment sentence of six months to five years.

(3) Where through an offence referred to in paragraph 2 of this Article large scale property damage occurred, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) If the offence referred to in paragraphs 1 and 2 of this Article has been committed out of negligence, the offender shall be punished by a fine or imprisonment sentence not exceeding two years.

(5) If the offence referred to in paragraph 4 of this Article results in the consequence referred to in paragraph 3 of this Article, the offender shall be punished by an imprisonment sentence of three months to five years.

Unlawful Handling of Entrusted Weapons

Article 469

Anyone who appropriates, disposes of, pawns, confers to another for use, damages or destroys weapons, ammunition or explosives that have been entrusted to him/her for use and serve the defence needs, shall be punished by an imprisonment sentence of three months to five years.

Theft or Weapons and Part of Combat Means

Article 470

(1) Anyone who steals weapons, ammunition, explosives, combat means or part of combat means serving for defence needs, shall be punished by an imprisonment sentence of six months to five years.

(2) If the value of objects referred to in paragraph 1 of this Article exceeds the amount of three thousand euro or if the theft has been committed by breaking open or breaking and entering locked buildings, rooms, safes, cabinets or other closed premises, or has been committed by several persons allied to commit a theft, or in an especially dangerous or rude manner, or by a person who had on him/her a weapon or a dangerous tool for attack or defence, or during a fire, flood, earthquake or other fatal accident, the offender shall be punished by an imprisonment sentence of two to ten years.

(3) If the value of objects referred to in paragraph 1 of this Article exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to twelve years.

Disclosure of Military Secrets

Article 471

(1) Anyone who, without authorization communicates, conveys or in some other manner makes available to another data that constitute a military secret or anyone who obtains such data with intention to convey it to an unauthorized person, shall be punished by an imprisonment sentence of three months to five years.

(2) If the offence referred to in paragraph 1 of this Article has been committed for gain, or in relation to particularly classified data, or in view of publication or use of such data abroad, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If the offence referred to in paragraph 1 of this Article has been committed out of negligence, the offender shall be punished by an imprisonment sentence not exceeding three years.

(4) A military secret is deemed to be data that have been by a law, other regulation or a decision of a competent authority passed under law proclaimed a military secret and whose disclosure would or may cause detrimental consequences for the Army of Serbia and Montenegro or the defence and security of the country.

Trespass on Military Facilities

Article 472

Anyone who trespasses on a military facility, or makes sketches or drawings of military facilities or combat means, or takes photographs of them, or makes any other kind of record, although s/he knows such action is prohibited, shall be punished by an imprisonment sentence not exceeding three years.

Punishment for Criminal Offences Committed during Imminent War Danger, State of War, Armed Conflict and State of Emergency

Article 473

(1) For criminal offences referred to in Art. 450 paragraph 1, 455 paragraphs 1 and 4, 456 paragraphs 1 and 3, 457 paragraphs 1 and 7, 458, 459, 460 paragraphs 1 and 2, 462 paragraph 1, 463 paragraphs 1 and 5, 464, paragraphs 1, 4 and 5, 465, 466 paragraphs 1 and 4, 467 paragraphs 1, 2 and 5, 468 paragraphs 1, 2, 4 and 5, 469, 470 paragraph 1, 471 paragraphs 1 and 3 and 472 of this Code, provided they have been committed during imminent war danger, state of war, armed conflict or state of emergency, the offender shall be punished by an imprisonment sentence of two to ten years.

(2) For criminal offences referred to in Art. 450 paragraphs 2 to 4, 453, 454, 455 paragraphs 2, 3 and 5, 456 paragraph 2, 460 paragraphs 3 and 4, 462 paragraph 2, 463 paragraph 3, 464 paragraph 2, 466 paragraphs 2 and 5, 467 paragraph 3, 468 paragraph 3, 470 paragraphs 2 and 3 and 471 paragraph 2 of this Code, provided they have been committed during imminent war danger, state of war, armed conflict or state of emergency, the offender shall be punished by an imprisonment sentence of three to fifteen years.

(3) For criminal offences referred to in Art. 463 paragraph 4, 464 paragraph 3 and 466 paragraph 3 of this Code, provided they have been committed during imminent war danger, state of war, armed conflict or state of emergency, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

Failure to Fulfil a Duty during Mobilization

Article 474

(1) A military person or an official who during mobilization in time of imminent war danger, state of war, armed conflict or state of emergency, in breach of his/her duty, fails to ensure the reception, deployment and accommodation of mobilized manpower, transport and other means and livestock, or fails to ensure the provisions for mobilized manpower or livestock, or fails to perform any other duty in relation to mobilization, which resulted or could have resulted in detrimental consequences, shall be punished by an imprisonment sentence of one to five years.

(2) If the offences referred to in paragraph 1 of this Article have resulted in grave consequences, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

(3) If the offences referred to in paragraph 1 of this Article have been committed out of negligence, the offender shall be punished by an imprisonment sentence not exceeding three years.

(4) If the offences referred to in paragraph 3 of this Article have resulted in the consequence referred to in paragraph 2 of this Article, the offender shall be punished by an imprisonment sentence of three months to five years.

Undermining of 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 hands a unit over to the enemy without combat or before all means for combat have been exhausted, or hinders and endangers in some other manner the military or defence measures, shall be punished by an imprisonment sentence of three to fifteen years.

(2) Anyone who commits an offence referred to in paragraph 1 of this Article with the intention of assisting the enemy, shall be punished by an imprisonment sentence of five to fifteen years.

(3) Anyone who prepares the commission of offences referred to in paragraphs 1 and 2 of this Article, shall be punished by an imprisonment sentence of one to six years.

(4) If the offences referred to in paragraph 1 of this Article have been committed out of negligence, the offender shall be punished by an imprisonment sentence of one to eight years.

(5) If the offences referred to in paragraphs 1 and 2 of this Article have resulted in the death of one or more persons, or have endangered lives of people, or have been accompanied by serious acts of violence or extensive devastation or have resulted in a threat to security, economic or military power of the country, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

Preventing Fight against Enemy

Article 476

(1) Anyone who during a war or armed conflict prevents citizens of SMN or citizens of its allies from fighting against the enemy, shall be punished by an imprisonment sentence of five to fifteen years.

(2) Anyone who during a war or armed conflict discourages citizens of SMN or citizens of its allies from fighting against the enemy by propaganda activities or in some other manner, shall be punished by an imprisonment sentence of one to eight years.

Defection and Surrender to the Enemy

Article 477

(1) A military person who during a war or armed conflict defects to the enemy force, shall be punished by an imprisonment sentence for a minimum term of ten years or an imprisonment sentence of forty years.

(2) A military person who during a war or armed conflict defects to the enemy before having previously exhausted all capacities of defence, shall be punished by an imprisonment sentence of two to ten years.

Service in the Army of the Enemy

Article 478

(1) A citizen of SMN who in times of war or armed conflict serves in the enemy army or other enemy armed formations, or takes part in a war or armed conflict as a combatant against SMN and its allies, shall be punished by an imprisonment sentence of three to fifteen years.

(2) Anyone who recruits citizens of SMN for service in the enemy army or other enemy armed formations or for participation in a war or armed conflict against SMN or its allies, shall be punished by an imprisonment sentence of five to fifteen years.

Aiding the Enemy

Article 479

(1) A citizen of SMN who during a war or armed conflict aids the enemy in requisition, taking away of food or other assets or in taking any kind of coercive measures against the population, shall be punished by an imprisonment sentence of two to ten years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a citizen of SMN who had political and economic cooperation with the enemy during war.

(3) If an offence referred to in paragraphs 1 and 2 of this Article has resulted in the death of one or more persons, or has endangered the lives of people, or has been accompanied by serious acts of violence, or extensive devastation, or has threatened the security of the economic or military power of the country, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

Failure to Discharge Duty and Abandonment of Duty during Combat

Article 480

(1) A military person who during combat or immediately prior to it, fails to discharge his/her duty and this results in detrimental consequences for the military unit or combat situation, shall be punished by an imprisonment sentence of two to ten years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on a military person who during combat or immediately before it abandons his/her duty of his own free will or in a fraudulent manner.

(3) If the offences referred to in paragraphs 1 and 2 of this Article have resulted in grave consequences, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

Abandonment of Position in Breach of Order

Article 481

(1) A military commander who, in breach of an order, abandons a position with the unit entrusted to him/her before having exhausted all capacities for defence, shall be punished by an imprisonment sentence of two to twelve years.

(2) If the offence referred to in paragraph 1 of this Article has resulted in grave consequences, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

Early Abandonment of a Damaged Ship and Aircraft

Article 482

(1) A commander of a war ship who during a war or armed conflict abandons the damaged ship before having fulfilled his/her duty under regulations on ship service, shall be punished by an imprisonment sentence of two to ten years.

(2) A member of a war ship crew who during a 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 during a war or armed conflict abandons the damaged military aircraft before having fulfilled his/her duty under regulations on flight and usage of aircraft, shall be punished by an imprisonment sentence of one to eight years.

(3) If the offences referred to in paragraphs 1 and 2 of this Article have resulted in grave consequences, the offender shall be punished for the offence referred to in paragraph 1 of this Article by an imprisonment sentence for a minimum term of ten years, and for the offence referred to in paragraph 2 of this Article by an imprisonment sentence of 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 in some other manner, weakens the combat morale in a unit or causes harm to combat situation, shall be punished by an imprisonment sentence of two to twelve years.

(2) A military commander who fails to take necessary measures against a subordinate or a junior who during combat or immediately prior to combat spreads fear among soldiers or in some other manner weakens the combat morale of the unit or causes harm to combat situation, shall be punished by an imprisonment sentence of one to eight years.

(3) If the offences referred to in paragraphs 1 and 2 of this Article have resulted in grave consequences, the offender shall be punished by an imprisonment sentence for a minimum term of ten years.

Failure to Report to Military Bodies

Article 484

(1) Anyone who, during imminent war danger, state of war, armed conflict or state of emergency, fails to inform the superior, senior or military command about the event that obviously requires taking of urgent military measures, shall be punished by an imprisonment sentence not exceeding three years.

(2) If the offences referred to in paragraph 1 of this Article have resulted in grave consequences, the offender shall be punished by an imprisonment sentence of two to ten years.

Criminal Offences Committed following Orders of Superiors

Article 485

Exempted from sentence shall be a subordinate who commits a criminal offence related to official duty following the order of a superior, unless the order referred to the commission of a criminal offence that is punishable by an imprisonment sentence of five years or a more serious sentence, and the subordinate knew that fulfilment of the order constitutes a criminal offence.

TITLE THIRTY SEVEN

TRANSITIONAL AND FINAL PROVISIONS

Article 486

Prior to entry into force of this Code, if a corrective measure of increased supervision in another family has been imposed on a juvenile, the court which tried the juvenile in the first instance shall replace that measure by another one envisaged by law but which should not be more heavier than the imposed measure by its type or duration.

Article 487

All criminal provisions contained in other laws that are contrary to this Code shall cease to have effect on the date of the entry into force of this Code.

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 it shall apply from three months after its entry into force.