

24 Annex - Justice, freedom and security

172. LAW ON FOREIGNERS

LAW ON FOREIGNERS

I GENERAL PROVISIONS

Subject of the Act

Article 1

This Law shall regulate the conditions of entry into, movement and stay of foreign citizens in Montenegro.

Scope of the Act

Article 2

This Law shall not apply to:

- 1) Foreign citizens who submitted an application to be granted asylum (asylum seekers);
- 2) Persons who are granted the status of refugees in Montenegro, unless otherwise stipulated by this Law;
- 3) Persons who enjoy privileges and immunities according to international law;

Provisions of the Convention Relating to the Status of Stateless Persons shall apply to persons without citizenship, when this is more favorable for them.

Entry, Movement and Stay

Article 3

A foreign person may enter Montenegro and stay in its territory provided that he or she has a valid travel document containing a visa or a residence permit, unless otherwise provided by this Law or an international treaty.

Foreign persons may be admitted to Montenegro without a valid travel document pursuant to international treaties or if so required for humanitarian and other reasons.

Article 4

A foreign person whose name is entered into the travel document of another person shall enter or exit Montenegro only accompanied by the person into whose travel document his or her name is entered.

Foreign persons who have a common travel document shall enter or exit Montenegro only together.

A person entered into a common travel document shall have an individual document containing a photograph on the basis of which his or her identity may be established.

The group leader shall have a personal passport.

Restriction of Prohibition of Movement

Article 5

Foreign persons shall be subject to a restriction or prohibition of movement in a particular area in Montenegro if so required for the reasons of national security and public order.

Obeying the Law

Article 6

During his or her movement and stay in Montenegro, a foreign person shall be obliged to observe the applicable regulations and decisions of the competent state bodies.

Movement of Foreign Persons in Uniform

Article 7

A may move about in a foreign military, police or customs official uniform under the conditions set forth by this Law.

Appropriate Application of Regulations

Article 8

The regulations governing general administrative procedure shall apply in the process of making a decision on the rights and obligations of foreign persons, unless otherwise provided by this Law.

Definition of Terms

Article 9

The terms used in this Law shall have the following meanings:

1. Foreign citizen means any person who is not the citizen of Montenegro;
2. Stateless person means a foreign citizen who is not recognized as a citizen of his or her state of origin;
3. Refugee means a foreign person whose status has been established according to the 1951 Refugee Convention of Geneva and the 1967 Protocol relating to the Status of Refugees, New York (hereinafter referred to as: the Convention), that is a foreign citizen who, due to justified fear

of persecution because of personal racial, religious or national belonging, belonging to a particular social group or being of a different political conviction, is not located in the country of his or her origin, or due to such fear has no wish to place himself or herself under the protection of such a state, and also a stateless person who found himself or herself outside of the country of previous place of residence, and who due to such a fear has no wish to return to that country;

4. Entry into Montenegro means crossing of the State border, meaning a border crossing point where border control is performed. Stopping of foreign persons at an airport or port transit area shall not be considered as an entry into Montenegro in the sense of this Law;
5. Transit means passing through the territory of Montenegro;
6. Border control means the control carried out on the occasion of actual crossing or immediately after the crossing of the state border;
7. Foreign travel document means a valid passport (personal or family), group passport, diplomatic passport, service passport, seaman's booklet, shipping book or other travel document recognized by international treaties pursuant to which the identity of its holder can be established, which has not expired and which has been issued according to the regulations on issuing travel documents of a foreign state;
8. Travel document for foreigners means a travel document for refugees, a travel document for stateless persons and travel papers for foreigners;
9. Valid travel document means a document issued by the competent authority, clearly confirming the term of validity of the document and the identity of its holder.
10. Visa means an official document affixed to the travel document in the form of a sticker;
11. Carrier means a natural person, legal person or entrepreneur whose business operations involve passenger transportation by land, sea, or in the air;
12. Identity card for s means a document of identity issued to a foreign permanent resident or a whose stay is temporary and who has no valid travel document;
13. Shelter means a structure for placing foreign persons who cannot be immediately removed by force or whose identity cannot be immediately established, and also for foreigners whose refugee status has been recognized.

II. ENTRY AND EXIT OF FOREIGN PERSONS

Control at Border Crossing Point

Article 10

Foreign persons shall submit themselves to border control when entering or leaving Montenegro.

Border control of foreign persons shall be carried out according to a special law.

The control of foreign persons at a border crossing point on the occasion of entering Montenegro shall also include checking of the requirements from Article 12 of this Law.

Border Pass

Article 11

Exceptionally from Article 3 of this Law, a foreign person who has no valid travel document and comes for a tourist visit or on business may be issued a border pass by the competent authority for the control and protection of the state border, on the basis of a travel document establishing his or her identity.

A border pass may be issued to a foreign person on a round trip in international maritime, river or air traffic also on the basis of a passenger list certified by the captain of a vessel or an aircraft.

The list of passengers from paragraph 2 of this Article shall include: surname and name, year of birth, citizenship status, number of travel document or other document proving the identity of the passenger.

Border pass shall be issued for a period not longer than 30 days.

Border pass shall not be issued to a foreigner where the reasons from Article 12 of this Law exist.

Denial of Entry

Article 12

A foreign person shall not be permitted to enter Montenegro, if :

- 1) He or she fails to satisfy the requirements from Article 10 of this Law;
- 2) He or she has insufficient financial resources to support himself or herself during his or her stay in Montenegro and to return to his country of origin or to travel to a third country;
- 3) He or she is in transit and fails to satisfy the requirements for entry into a third country;
- 4) A pronounced protective measure of expulsion or deportation is in force;
- 5) He or she has no certificate of vaccination, while coming from an area where the existence of an epidemic disease was confirmed;
- 6) This is required by reasons of national security and public order;
- 7) It may be justifiably suspected that he or she may commit a criminal act during his or her stay, as already prosecuted for ex officio;
- 8) He or she is on the corresponding records as an international offender;
- 9) It may be justifiably suspected that his or her stay shall not comply with the stated purpose.

A denial of entry shall be entered into the foreign persons' travel document.

Illegal Crossing of the State Border

Article 13

The following shall be considered an illegal crossing of the state border in the sense of this Law:

- 1) Crossing or attempted crossing of the state border outside of the place or time established for the crossing of the state border;
- 2) Avoidance or attempted avoidance of border control;

- 3) Use of another person's, invalid or irregular travel or other document;
- 4) Providing border policemen with false information;
- 5) Entry into the country while the proclaimed protective measure of expulsion or deportation is in force.

Stay without Visa

Article 14

A foreign person who is allowed to enter Montenegro without a visa may stay there not longer than for 90 days in six subsequent months.

The time limit from paragraph 1 of this Article shall start running from the day of first entry into Montenegro, unless otherwise provided by international treaty.

Exit

Article 15

Foreign persons may exit Montenegro freely.

Exceptionally from paragraph 1 of this Article, a foreign person shall not be permitted to leave in case:

- 1) He or she has another person's, invalid or irregular travel or other document;
- 2) He or she fails to satisfy the requirements for entering another country;
- 3) It may be justifiably suspected that he or she intends to avoid criminal or offence prosecution, serving of a sentence, execution of court order, arrest or execution of a matured real estate or legal obligation;
- 4) It is required for the reasons of national security and public order.

A foreign person shall be allowed to exit Montenegro as soon as the reasons from paragraph 2 of this Article cease to exist.

III VISAS

Visas, Visa Regime and Competence for Visa Issuing

Article 16

A visa is a permission enabling foreign citizens to enter, stay in and transit through the territory of Montenegro.

Visa regime shall be regulated by the Government of Montenegro (hereinafter referred to as "The Government").

Foreign citizen shall obtain a visa prior to entering Montenegro.

Authorities Competent for Visa Issuing Procedure

Article 17

Visa application shall be considered and decided by:

- Diplomatic or consular representation office in a foreign country;
- Administrative authority competent for the affairs relating to sojourn of foreign persons.

Visa shall be issued by:

- Diplomatic or consular representation office in a foreign country;
- Administrative authority competent for the affairs relating to sojourn of foreign persons

Term of Validity

Article 18

Visa shall be issued to a holder of a valid travel document.

Visa shall be issued for a period of time which is shorter than the term of validity of the travel document.

Visa Types

Article 19

Visas shall be of the following types:

Airport transit visa (A Visa) ,transit visa (B Visa), visa for short-term stay (C Visa) and visa for long-term stay (D Visa).

Airport Transit Visa (A Visa)

Article 20

A foreign person who does not leave an airplane or international transit space of an airport during a stop over shall not require a visa.

Exceptionally from paragraph 1 of this Article, the Government may identify foreign persons who need an airport transit visa for particular travel routes, where so required for the reasons stated in Article 5 of this Law.

An airport transit visa may be issued to a foreign person after personal request for one or more crossings through an international transit space of an airport, during the interruption of a travel or transfer between two flight legs of an international flight, without actual entering into the territory of Montenegro.

Transit Visa (B Visa)

Article 21

A transit visa shall be issued to a foreign person for one, two or more trips through the territory of Montenegro in order to reach the territory of a third country.

A transit visa shall be issued with a term of validity of up to six months.

Pursuant to a transit visa a foreign person may stay in Montenegro for not longer than five days.

A transit visa may be issued to a foreign person who has an entrance visa of the state that he or she travels to or through whose territory he or she continues his or her travel, unless otherwise determined by an international treaty.

A transit visa may be issued to a group of travelers that had was formed before making a decision about the travel, and who pass through the territory of Montenegro together, in which case this shall be entered into a group passport

Exceptionally, if so required for humanitarian, professional or personal reasons, a transit visa for a single transit may be issued by the border police.

Visa for Short-Term Stay (C Visa)

Article 22

A visa short-stay visa shall be issued for a single or multiple entries into the territory of Montenegro.

The visa from paragraph 1 of this Article shall be issued for tourist, business, personal and other travel.

An uninterrupted stay or the total length of successive stays of foreign persons with a visa for short-term stay in Montenegro shall not exceed 90 days within a period of six months, counting from the day of the first entry.

A multiple-entry visa for short-term stays shall be valid for not longer than one year.

A visa for a short-term stay may be issued to a group of travelers which was formed before making a decision about the travel, where the members of that group enter the territory of Montenegro together, stay there and leave as a group. This visa shall not be valid for longer than 30 days.

The visa from paragraph 6 of this Article shall be entered into a group passport and may be issued to a group of not less than 5 and not more than 50 persons, whereas the person who leads the group shall have a personal passport and, when necessary, the required visa.

Visa for Long-Term Stay (D Visa)

Article 23

The visa for a long-term stay shall be issued to a foreign person intending to stay continuously in the territory of Montenegro for not longer than one year, counting from the day of entry into effect of the visa.

Extension of Validity for Short-Term Visa (C visa)

Article 24

No visa for a short-term stay shall be extended.

Exceptionally from paragraph 1 of this Article, the validity of a visa for short-term stay may be extended for humanitarian, professional, personal reasons or due to force majeure.

An application for the extension of a visa for short-term stay shall be submitted to the authority competent for the sojourn of foreign citizens (hereinafter referred to as "the competent authority").

Rejection of Visa Application and Visa Cancellation

Article 25

The competent authority shall issue no visa to a foreign person if:

- 1) An obstacle from Article 12 of this Law exists;
- 2) He or she fails to appear in person following the request of a diplomatic or representation office abroad;

Exceptionally from paragraph 1 of this Article, a visa may be issued for humanitarian reasons, if this is in the interests of Montenegro or if so required due to internationally valid obligations.

In the case from paragraph 2 of this Article, the border police may allow a foreign citizen to enter the country solely through a specified border crossing point.

A visa shall be cancelled by the border police in case an obstacle from Article 12 of this Law is confirmed.

An appeal may be filed against the decision whereby a visa application is rejected to the ministry competent for interior affairs (hereinafter referred to as „The Ministry“).

The Ministry shall decide about the appeal from paragraph 5 of this Article within no more than eight days following that of its submission.

Obligations of Carriers

Article 26

A carrier may bring a foreign person to a border crossing point only if the requirements from Article 3 of this Law are satisfied.

The carrier shall, without any delay and at its own expense, take a foreign person away and cover the costs of his or her stay in Montenegro in case the requirements from Article 3 of this Law are not satisfied.

An organizer or a tourist or business travel shall cover the costs of stay and removal from Montenegro for the foreign beneficiaries of their respective services who are expelled for the reasons from Article 3 of this Law, and where they are not able to cover their own expenses.

IV RESIDENCE OF FOREIGN CITIZENS

Types of Residence

Article 27

Residence of a foreign citizen in the sense of this Law shall include a:

- 1) Sojourn of up to 90 days;
- 2) Temporary residence;
- 3) Permanent residence.

The residence from paragraph 1 item 1 of this Article shall mean the stay of a foreign person not holding a visa, and holding a visa or a border pass, unless otherwise stipulated by this Law or an international treaty.

Temporary Residence

Article 28

Temporary residence may be granted to a foreign person:

- 1) Who intends to stay in the country for a longer period of time but not for the reasons on the basis of which the visa was issued;
- 2) Who has a visa but intends to stay in the country for a period longer than 90 days for the reasons specified in Article 31 of this Law.

A foreign person may not need to have a granted temporary stay, if so regulated by a special law or international treaty.

Application for Temporary Residence

An application for temporary residence shall be submitted to a diplomatic or consular representation office abroad.

The application for issuing a permit from paragraph 1 of this Article shall be enclosed with a valid travel document of the concerned foreign person, and also other evidence proving that he or she applied for issuing of a temporary residence permit for justifiable reasons.

The applicant from paragraph 1 of this Article shall not change the reason of stay in the course of the application procedure.

A foreign person requiring no visa for entering Montenegro may also submit an application for temporary residence to the competent authority.

The application from paragraph 1 of this Article shall be decided on by the competent

authority, with prior consent of the state administration body which is responsible to examine the statement of justifiability from the application for temporary residence.

Temporary Residence Validity Period

Article 30

Temporary residence shall be granted for a period of not longer than one year, unless otherwise provided by this Law or an international treaty.

Temporary residence may be extended for not longer than two years, unless otherwise set forth by this Law.

Temporary residence permit shall be entered into the passport of a foreign person. The period of validity of the travel document shall exceed the period covered by the permit by at least three months.

Exceptionally, temporary residence of a foreign person who is not the holder of a valid travel document may be extended following a decision.

Temporary Residence Permit

Article 31

A foreigner intending to stay in Montenegro shall be issued a temporary residence permit for the following reasons:

- 1) Employment, work, and performance of a business or entrepreneurship activity;
- 2) Education and University attendance; specialization or professional training; participation in international student exchange programs and other youth-orientated programs;
- 3) Seasonal work;
- 4) Family reunification;
- 5) Other justified reasons stipulated by law or international treaty.

A foreign person who was granted temporary residence for the reasons from paragraph 1 of this Article may stay in Montenegro in accordance with the purpose stated in his or her temporary residence permit.

A foreign person who was granted temporary residence for the reasons specified in paragraph 1 of this Article, except for foreign persons staying in Montenegro as seasonal workers or those requiring no work permit to work in Montenegro, may be granted temporary residence for other reasons when intending to stay in Montenegro for a period longer than 30 days.

Conditions for Granting of Temporary Residence

Article 32

A foreign person may be granted temporary residence if:

- 1) He or she possesses sufficient financial resources for personal maintenance;
- 2) He or she is covered by health insurance;
- 3) No obstacle from Article 8 of this Law exists;
- 4) Evidence justifying the request for temporary residence has been enclosed.

The applicable certificate of absence of criminal records shall be enclosed with an application for temporary residence.

An appeal may be filed against the decision rejecting an application for temporary residence within eight days following that of its delivery.

The appeal from paragraph 3 of this Article shall be decided on by the Ministry.

Temporary Residence for Employment and Work

Article 33

Temporary residence for employment and work, and the performance of a business or entrepreneurship activity, may be granted to a foreign citizen who:

- 1) Was previously issued a work permit by the public employment agency;
- 2) Intends to stay in Montenegro for a period longer than 30 days, provided that all other requirements stipulated by this Law are satisfied, and that no work permit is required.

Temporary residence shall be granted to a foreign person from paragraph 1 of this Article for a period specified in his or her work permit, that is for a period from Article 30 paragraph 2 of this Law.

Temporary Residence for Education and University Attendance

Article 34

In addition to evidence proving that the requirements from Article 32 of this Law are satisfied, a certificate confirming an education activity or university attendance shall be enclosed with the application for temporary residence to be issued for the purpose of attending a school, university, a course of specialization or professional training.

The temporary residence permit from paragraph 1 of this Article may be extended for a period not longer than two years following the expiration of the actual period of education, university attendance, specialization or professional training.

Temporary Residence for Family Reunification

Article 35

An application for temporary residence for family reunification shall be submitted by a foreign person who is an immediate family member of a Montenegrin national or a foreign person who was granted the status of a temporary resident of refugee.

An immediate family in the sense of this Law shall include: a spouse, children born in

our out of wedlock, adopted children and step children.

Exceptionally, another relative may also be considered as a family member if there are special personal or humanitarian reasons for family reunification in Montenegro.

Extension of Temporary Residence

Article 36

Temporary residence of a foreign person who is a member of the immediate family of a Montenegrin national may be extended for a period not longer than three years, until the requirements for issuing of a permanent residence permit are satisfied.

Temporary residence of a foreign person, an immediate family member, may be extended also in the case of death of the Montenegrin national from Article 35 paragraph 1 of this Law, even if the marriage that had lasted in Montenegro for not less than three years ceased to exist.

Temporary Residence of a Child Born in the Territory of Montenegro

Article 37

Temporary residence of a child born in the territory of Montenegro, who is not a citizen of Montenegro, shall be extended for the duration of temporary residence of one of his or her parents or guardians.

Cancellation of Temporary Residence

Article 38

The sojourn of a foreign person who was granted to remain in Montenegro for up to 90 days or a foreign person who was granted temporary residence may be cancelled by the competent authority in the following cases:

- 1) Existence of causes from Article 12 of this Law;
- 2) Employment and work without a valid work or business permit, that is contrary to this Law;
- 3) Residence for other purposes, contrary to those for which his or her residence permit was issued;
- 4) Threat to the public order or other values protected by law.

When considering the cancellation of a foreign person's stay, the following facts shall be particularly taken into account:

- 1) Duration of residence;
- 2) Personal, family, economic and other circumstances;
- 3) Period of time within which the foreign person shall have to leave Montenegro, provided that such a period may not be longer than 30 days;

4) Period of prohibition of entry into Montenegro.

Cancellation of stay and prohibition of entry shall be entered into the related travel document.

Conclusion of a Temporary Residence

Article 53

Temporary residence of a foreign person in Montenegro shall be concluded if:

- 1) His or her stay of up to 90 days or temporary residence was cancelled;
- 2) A protective measure of expulsion or security measure of deportation was pronounced;
- 3) The period of temporary residence expired.

Permanent Residence

Article 40

Permanent residence may be granted to a foreign citizen:

- 1) Who had continuously lived in the country for five years, holding a temporary residence permit, before the application for permanent residence was submitted;
- 2) Who has been married to a Montenegrin national for no less than three years, or a foreign citizen having the status of a permanent or temporary resident;
- 3) Who is an underage person having the status of a temporary resident of Montenegro, where one of the parents is a foreign person who is granted permanent residence, and with a prior consent by the other parent;
- 4) Of Montenegrin origin;
- 5) Who is a member of the immediate family of a Montenegrin national or a foreign person who is a permanent citizen or who has a legal refugee status.

Exceptionally from paragraph 1 of this Article, permanent residence may be granted to a foreign citizen who has the status of a temporary resident, if so required for humanitarian reasons or if this would be in the interest of Montenegro.

No time that a foreign citizen spent serving a prison sentence shall be included into the required period for the issuing of a permanent residence permit.

Jurisdiction

Article 41

An application for permanent residence shall be submitted to the competent authority.

An appeal against the decision rejecting the application for permanent residence may be lodged to the Ministry within three days following that of its delivery.

The Ministry shall issue a decision on the appeal from paragraph 2 of this Article not

later than within 8 days following that of its submission.

Permanent residence permit shall be entered into the travel document of a foreign person.

Rejection of Application

Article 42

No permanent residence shall be granted to a foreign person who:

- 1) Has been convicted of a criminal act for which he or she is being prosecuted ex officio or where the criminal charges were brought against that person for having committed such a criminal act;
- 2) Has no financial resources for personal maintenance;
- 3) Is not covered by health insurance;
- 4) Has no place of residence;
- 5) If so required for the reasons of security and public order.

Cancellation of Permanent Residence

Article 43

The permanent residence status of a foreign person in Montenegro shall be cancelled if:

- 1) He or she has been unconditionally sentenced to a prison term of more than six months for a criminal act for which he or she is being prosecuted ex officio;
- 2) So required for the reasons of security, public order or environmental protection;
- 3) The existence of reasons for the cancellation of permanent residence is established;
- 4) He or she provided false information on personal identity or concealed any circumstances of relevance for the issuing of a permit.

The provisions of paragraphs 2 and 3 of Article 38 of this Law shall apply accordingly to the cancellation of permanent residence.

Termination of the Right to Permanent Residence

Article 44

The right of a foreign person to permanent residence shall be terminated if:

- 1) A security measure of deportation or protective measure of expulsion was pronounced against this person;
- 2) It is established that a foreign person moved out of Montenegro or continuously stayed abroad for a period longer than one year without having informed the Ministry accordingly;

- 3) His or her permanent residence was cancelled;
- 4) He or she renounced his or her right to permanent residence by making a declaration;
- 5) He or she was granted Montenegrin citizenship.

The decision on termination of permanent residence from item 2 paragraph 1 of this Article shall be issued by the competent body.

A decision may be issued also without a prior statement given by the foreign citizen.

An appeal against the decision from paragraph 2 of this Article may be lodged to the Ministry within three days following that of its delivery.

A decision on the appeal from paragraph 4 of this Article shall be issued by the Ministry within 8 days following that of its submission.

V. ILLEGAL RESIDENCE

Obligation of Foreign Citizen to Leave Montenegro due to Illegal Residence

Article 45

Any stay in Montenegro with no visa or residence permit shall be regarded as illegal residence.

A foreign person illegally residing in Montenegro shall leave its territory immediately or within a specified deadline.

It shall be deemed that a foreign person left Montenegro when he or she enters another country into which he or she is allowed to enter.

A foreign person who applied for an extension of temporary residence in a timely manner may remain in Montenegro until the issuing of a legal decision on his or her application.

Deadline for Departure from Montenegro

Article 46

The competent body shall issue a decision specifying the deadline within which a foreign person must leave the territory of Montenegro, and also, if so required the point of crossing of the state border and an obligation to report to the competent border police official.

An appeal against the decision from paragraph 1 of this Article may be lodged to the Ministry within three days following that of its delivery.

The Ministry shall issue a decision on the appeal from paragraph 2 of this Article, not later than within eight days following that of its submission.

The execution of the decision shall not be deferred by the appeal.

When setting the time limit from paragraph 1 of this Article, the competent body shall set an objective time limit within which the foreign person in question will be able to act accordingly, whereas such deadline may not be longer than 30 days after the issuing of a

decision.

Following the request of a foreign person or ex officio, the competent body may set another time limit for a foreign person who failed to leave the territory of Montenegro for justified reasons within the time limit from paragraph 5 of this Article.

A foreign person who was pronounced a protective measure of expulsion or security measure of deportation or who has to be deported according to international treaty shall be given a time limit to leave the country only if such an action is justified by legitimate reasons.

Execution of the Protective Measure of Deportation or Security Measure of Expulsion

Article 47

The provisions of Article 38 paragraph 2 shall apply accordingly to the consideration of a decision to proclaim the protective measure of deportation or security measure of expulsion.

A foreign person may lodge an appeal against the decision of the regional authority conducting the offence procedure within eight days.

The authority from paragraph 2 of this Article may rule that no appeal shall defer the decision, in case of possible danger that the execution of the decision may be obstructed by the foreign person.

Duty to Report Illegal Stay of Foreign Persons

Article 48

State bodies, legal and natural persons shall have the duty of notifying the competent authority without any delay about an illegal stay of a foreign person or a person who may be subject to the conditions for the cancellation of his or her residence status in Montenegro

The authority that brought criminal charges or instituted an offense procedure against a foreign person shall notify the competent body accordingly without any delay.

VI. COMPULSIVE DEPORTATION

Time Limit for Compulsive Deportation

Article 49

A foreign person who resides in Montenegro illegally or fails to leave Montenegro within the specified deadline shall be compulsively deported by the competent body.

A foreign person who was pronounced the protective measure of deportation or security measure of expulsion or the one who has to be deported pursuant to an international treaty shall be compulsively deported at once.

Prohibition of Compulsive Deportation

Article 50

No foreign person shall be compulsively deported to a country where his or her life or freedom may be threatened because of racial, religious or ethnic belonging, membership in a particular social group or for having a different political conviction or where he or she might be exposed to torture, inhuman or degrading treatment and punishment.

The ban on compulsory deportation shall not apply to a foreign person when there are justified reasons for believing that he or she may represent a threat to the public order or national security or if he or she is legally sentenced for having committed a criminal act for which he or she is prosecuted ex officio.

Detention and Shelter

Article 51

Exceptionally, when so required for the reasons of ensuring a compulsory deportation, a foreign person may be detained at the premises of the competent body, but not for a period longer than 12 hours.

The provisions of the law regulating police affairs shall accordingly apply to the detention of foreign persons

The freedom of movement of a foreign person who could not be compulsively deported at once or whose identity was not established shall be limited by placing this person into a Shelter for foreign person maintained by the competent body (hereinafter referred to as "The Shelter").

Exceptionally from paragraph 3 of this Article, another appropriate lodging shall be found for a foreign person in need of medical care or having other special needs.

Duration of Stay at the Shelter

Article 52

A foreign person may stay at the Shelter until the moment of compulsive deportation. Total duration of a stay at the Shelter shall not be longer than 90 days.

Following the expiration of the time limit from paragraph 1 of this Article, foreign person may be placed at the Shelter again if:

- 1) The procedure for the establishing of identity or data collection is in progress;
- 2) So required for security reasons;
- 3) In the process of compulsive deportation, the foreign person applied to seek asylum.

A foreign person may be allowed to leave the Shelter if justifiably expected that it would not be possible to deport him or her by force.

The duration of stay of a foreign person outside of the Shelter shall not be included into the period of his or her stay at the Shelter.

Observing of the Rules of Conduct at the Shelter

Article 53

A foreign person shall observe the rules of conduct at the Shelter and shall not leave the Shelter without permission.

A foreign person who may be reasonably suspected of behaving in the future in a manner contrary to paragraph 1 of this Article shall be subject to an enhanced supervision.

Decision on the Placement in the Shelter

Article 54

A decision on the placement in the Shelter shall be issued by the competent authority.

An appeal against the decision from paragraph 1 of this Article may be lodged to the Ministry not later than within eight days following that of its delivery.

The Ministry shall decide in the appeal from paragraph 2 of this Article within eight days following that of its submission,

The execution of a decision shall be deferred by no appeal.

Termination of Stay at the Shelter

Article 55

The stay at the Shelter shall be terminated:

- 1) Following the departure of the foreign person from Montenegro;
- 2) When the time limit for the foreign person's stay expires.

Compulsory Place of Residence

Article 56

A foreign person whose accommodation is provided for, who has sufficient financial resources for personal maintenance and cannot be deported by force may, for the purpose of execution of such a measure, be ordered not to leave a particular place of residence.

The compulsory residence from paragraph 1 of this Article shall be identified by the competent authority ex officio or following the request of a foreign person.

No compulsory residence shall last for a period longer than six months.

Restriction of Movement to Particular Place of Residence

Article 57

The foreign person from Article 56 of this Law shall remain at a defined address of his or her place of residence and regularly report to the nearest police authority.

The stay in the sense of paragraph 1 of this Article shall not last for longer than six months.

No determination of the place of residence from Article 56 of this Law shall release the foreign person from his or her duty to leave Montenegro.

Termination of the right of a foreign person to remain at a particular place of residence shall be entered into his or her travel document.

A foreign person who has no travel document shall be issued a document with a photograph.

Termination of Compulsory Residence

Article 58

Compulsory residence shall be terminated:

- 1) Following the foreign person's departure from Montenegro;
- 2) Following the expiration of time limit from Article 56 of this Law;
- 3) By annulment.

Compulsory residence may be cancelled when the reasons from Article 56 and Article 57 paragraph 1 of this Law cease to exist, and also when a foreign person fails to observe the law and international treaties.

Placement of Underage Person in the Shelter

Article 59

An underage person shall be placed in the Shelter together with his or her parents, that is another legal representative, unless assessed that another type of accommodation is more favorable for him or her.

Exceptionally, an enhanced supervision at the Shelter may be ordered for an underage foreign person who has not turned 16 years of age yet, only if such a person is accompanied by his or her parents or another legal representative.

An underage person shall not be returned to the country of origin or a third country that is ready to accept such a person for as long as it is not ensured that he or she shall be appropriately received.

The competent authority shall not return an underage person back to the country of origin or a third country that is ready to accept him or her if contrary to Articles 3, 5 and 8 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment including Protocol No 2 amending the Convention, and Articles 9 and 37 of the Convention on the Rights of the Child

Jurisdiction for Issuing Decision on Compulsory Residence

Article 60

Decision on compulsory residence of a foreign person shall be issued by the competent authority.

An appeal against the decision from paragraph 1 of this Article may be lodged within eight days following its delivery.

The Ministry shall issue a decision relating to the appeal not later than within eight days.

Settlement of Expenses

Article 61

The costs of escort to a diplomatic or consular representation office, that is to the Shelter or the state border shall be born by the escorted foreign person.

- 1) The employer who employed a foreign person without the applicable permit or the person who assumed the responsibility of covering the costs of his or her stay in Montenegro shall bear the costs from paragraph 1 of this Article if the foreign person has no financial means for personal maintenance.

The costs that cannot be covered in the manner specified under paragraphs 1 and 2 of this Article shall be covered from the budgetary funds of Montenegro.

Removal of Documents and Objects

Article 62

For the purpose of ensuring the execution of a protected measure of deportation, travel and other documents and travel tickets may be temporarily taken away from a foreign person.

VII SPECIAL PROVISIONS ON THE LEGALIZATION OF FOREIGN PERSONS'
RESIDENCE

Article 63

With the objective of protection of human rights of foreign persons reasonably believed to have been the victims of the crime of human trafficking, the competent authority shall, exceptionally from Articles 28, 30, 31 and 32 of this Law, enable such a foreign person to remain in the territory of Montenegro and authorize his or her stay for humanitarian reasons.

Article 64

The foreign person from Article 63 of this Law, exceptionally from Articles 40 to 44 of this Law, shall be issued a permanent residence permit by the competent authority if:

- 1) So required for humanitarian reasons;
- 2) This person was exposed to a serious threat to his or her life, health, bodily integrity or freedom.

Article 65

The provisions of this Law shall also apply accordingly to underage persons.

Article 66

The foreign persons from Articles 63, 64 and 65 of this Law who, as justifiably believed, may by making a statement be exposed to a serious threat to his or her life, health, bodily integrity or freedom, shall be protected following a special law regulating the protection of witnesses.

Article 67

The foreign persons from Article 63 of this Law shall not be deported by the competent authority for the reason of illegal entrance into or stay in Montenegro.

VIII TRAVEL DOCUMENTS OF FOREIGN PERSONS

Types of Travel Documents

Article 68

Travel documents, in the sense of this Law, shall include foreign travel documents and travel document for foreigners.

Conditions for Issuing a Travel Document

Article 69

A travel document shall be issued to a person who has turned 16 years of age.

A person under the age of 16 shall be entered into the travel document of one of his or her parents.

Exceptionally, when there is a justified reason, travel document for a foreign person may be issued to a person under the age of 16.

Competent Authority

Article 70

Travel document for a foreign person shall be issued by a foreign diplomatic or consular representation office abroad or the competent authority.

Term of validity of the travel document for a foreign person shall not exceed one year.

Travel Papers

Travel papers for a foreign person shall be issued to a foreign person other than the holder of a valid travel document if;

- 1) He or she is no longer a citizen of Montenegro – for going abroad;
- 2) He or she lost his or her travel document or has it no longer for other reasons, while his country of nationality has no diplomatic or consular representation office abroad or where its interests are not represented by another state – for going abroad;
- 3) His or her travel document for a foreign person issued by a foreign diplomatic or consular office abroad or the competent authority has been lost abroad – to return to Montenegro.

Travel papers for a foreign person may also be issued to another foreign person, provided that there is legitimate reason.

Competent Authority

Article 72

Travel papers for a foreign person shall be issued by:

- 1) The competent authority, in the cases from Article 71(1) points 1 and 2 of this Law;
- 2) A diplomatic or consular representation office abroad, following an approval by the competent authority, in the cases from Article 71(1) point 3 of this Law;
- 3) The competent authority or by a diplomatic or consular representation office abroad, following an approval by the competent authority, in the cases from Article 71(1) point 2 of this Law.

Rejection of Application

Article 73

No travel document shall be issued to a foreign person:

- 1) Who is engaged in criminal or administrative proceedings, unless previously approved by the authority that is conducting the proceedings;
- 2) Who was sentenced to a prison sentence or fine, until such sentence is served or fine settled;

- 3) Who failed to satisfy his or her real property or civil obligation following a valid decision issued by the competent court;
 - 4) If so required for the reasons of national security and the public order.
- 5)

Take Away of Travel Document

Article 74

The competent authority shall temporarily take the travel document of a foreign person away and this shall last for as long as the reasons for such an action exist.

The competent authority shall issue a receipt proving that the travel document was taken away.

IX: DOCUMENTS OF IDENTITY

Purpose of Documents and Ban on Allowing Disposal by Other Persons

Article 75

Personal identity of a foreign person shall be proven by his or her travel document, foreign personal identity card, special personal identity card or any other public document containing a photograph.

Foreign person shall present his or her personal identity document at the request of the competent authority.

Foreign person shall not allow his or her personal identity document to be used by another person or use an invalid or another person's document as own document.

Foreign person shall use the name entered into his or her travel document or another document of personal identity.

Identity Card for Foreign Person

Article 76

A personal identity card may be issued to a foreign person who is the holder of a permanent residence permit or temporary residence permit, and who has no other valid travel document.

A special personal identity card may also be issued to a foreign person who is the holder of a temporary residence permit and has a valid travel document, at personal request or at the request of a diplomatic or consular representation office of the country of his or her nationality.

A foreign person who is a member of a diplomatic or consular representation office of a foreign state or another mission having diplomatic status shall be issued a special personal identity card.

Application Procedure

Article 77

A foreign person who has turned 16 years of age may apply to be issued a personal identification card.

A foreigner having the status of a permanent resident shall apply to be issued a personal identity card for foreigners within 30 days following that of his or her arrival to his or her current place of residence.

Competent Authority

Article 78

Personal identity card from Article 76 paragraphs 1 and 2 of this Law shall be issued by the competent authority.

Special identity card for the foreign person from Article 76 paragraph 3 of this Law shall be issued by the state administration body competent for foreign affairs.

Term of Validity

Article 79

Foreign citizen who has the status of a permanent resident shall be issued a personal identity card valid for a period of five years.

Foreign citizen who has the status of a temporary resident shall be issued a personal identity card valid for the specified duration of temporary residence.

Substitution of Identity Card

Article 80

Personal identity card of a foreign person may be substituted in case of damage of bad state of conservation, or if the photograph no longer reflects the appearance of the foreign person, that is when it can no longer serve its purpose for any other reasons.

The foreign person shall apply for the substitution of his or her personal identity card to the authority responsible for the substitution of identity cards of foreign persons not longer than within eight days following that of the occurrence of reasons from paragraph 1 of this Article.

Obligation to Return Personal Identity Card

Article 81

Foreign person shall return his or her personal identity card to the competent authority when:

- 1) He or she is granted Montenegrin citizenship;
- 2) Moving out of Montenegro;
- 3) His temporary or permanent residence is cancelled according to Article 38 and Article 44(1) item 3 of this Law.

Disappearance or Loss of Documents for Foreigners

Article 82

In case of a loss or disappearance of the document proving his or her personal identity, a foreign person shall without any delay notify the competent authority or the nearest diplomatic or consular representation office abroad.

The authority from paragraph 1 of this Article shall issue the foreign person a receipt confirming the loss or disappearance of his or her travel document.

The loss or disappearance of documents for proving identity shall be announced in the Official Gazette of the Republic Montenegro, at the foreign person's expense.

The competent authority shall issue a document confirming that the loss, disappearance or theft of the document from paragraph 1 of this Article was reported.

Temporary Withholding of Documents for Personal Identification

Article 83

A document proving the identity of a foreign person shall be temporarily withheld by the competent authority if:

- 1) A foreign person is reasonably suspected of having committed a criminal offense for which he or she is prosecuted ex officio or of having violated the law;
- 2) A foreign person failed to satisfy his or her real property or civil obligation at the request of the competent court;
- 3) So required for the reasons of national security, public order or protection of public health.

The documents from paragraph 1 of this Article shall be withheld for as long as the causes of such an action cease to exist.

A document confirming the temporary withholding of documents from paragraph 1 of this Article shall be issued by the competent authority.

X. TEMPORARY AND PERMANENT PLACE OF RESIDENCE OF FOREIGN PERSONS

Meaning of Temporary and Permanent Place Residence

Article 84

Temporary place of residence shall be a place where a foreign person remains for a period not longer than 90 days or a place of temporary residence of a foreign person.

Permanent place of residence shall be the place where a foreign person was permitted to settle down with an intention of living there permanently.

Compliance with other Valid Laws

Article 85

The provisions of the applicable law regulating the issues of temporary and permanent place of residence shall apply to the registration of a permanent place of residence and the submission of a notice of departure, and to the registration of a temporary place of residence and the submission of a notice of departure.

XI. COLLECTION OF PERSONAL INFORMATION

Article 86

The competent authority may collect personal information relating to foreign persons from the state administration bodies, corporate entities and entrepreneurs and from the foreign persons themselves if this is

- 1) In the interest of the concerned foreign person who has not opposed it; and
- 2) Necessary in order to reconfirm the particulars of a foreign person.

The authorities from paragraph 1 of this Article shall deliver the required information to the competent authority as requested.

The collection and processing of personal information shall be performed according to a special law regulating the protection of personal information.

XII. MOVEMENT OF FOREIGN PERSONS IN UNIFORM

The Conditions for Wearing Foreign Military Uniform

Article 87

During his or her stay in Montenegro, a foreign person may wear a foreign military uniform if he or she:

- 1) Is a member of a diplomatic mission, that is a diplomatic or consular representation office of a foreign state or another foreign mission having a diplomatic status in Montenegro, and also has the status of a military representative, for as long as his mission should last;
- 2) Is a members of a foreign military mission of foreign military delegation, during such official visit to Montenegro;
- 3) Is attending a military school;

- 4) Is a member of a foreign military mission or foreign military delegation, having a diplomatic or service passport and traveling through the territory of Montenegro;
- 5) Is participating in a military exercise or training.

The Conditions for Wearing Foreign Police Uniform or
Uniform of Customs Officers

Article 88

During his or her stay in Montenegro, a foreign person may wear a foreign police uniform or a uniform of customs officers if he or she:

- 1) Is a member of a delegation of foreign police or customs authorities during an official visit to Montenegro;
- 2) Performs the activities of a joint state border crossing control at the end of the border crossing point that belongs to Montenegro;
- 3) Is attending a training course at the Police Academy;
- 4) Is a holder of a diplomatic or service passport and a member of a foreign delegation of the police or customs officers traveling through the territory of Montenegro;

XII SUPERVISION

Article 89

The implementation of this Law and the related secondary legislation shall be supervised by the Ministry.

XIII PENAL PROVISIONS

Article 90

A foreign person shall be fined in the amount of not more than five to twenty minimum wages in Montenegro per instance for the following violations of the law:

- 1) Failure to leave Montenegro within a specified period of time (Article 45 paragraph 2 and Article 46 paragraph 1);
- 2) Unauthorized departure from the Shelter or failure to observe the applicable rules of behavior at the Shelter (Article 53); and
- 3) Departure from the place of residence as specified by the competent authority or failure to report to the competent authority regularly (Article 57).

Article 91

172. LAW ON FOREIGNERS

A foreign person shall be fined in the amount of not more than three to fifteen minimum wages in Montenegro per instance in case of:

- 1) Entering Montenegro and staying in its territory without a valid travel document containing a visa or a residence permit (Article 3);
- 2) Movement or stay in a particular area where her or his movement or stay is restricted or prohibited (Article 5);
- 3) Staying in Montenegro contrary to the purpose stated in his or her visa application (Article 22 paragraph 2);
- 4) Staying in Montenegro contrary to the purpose stated in his or her temporary residence permit (Article 31);
- 5) Illegal stay in Montenegro (Article 45 paragraph 1);
- 6) Refusal to present his or her identity document to an authorized official of the competent authority (Article 75 paragraph 2);
- 7) Allowing a third person to dispose of his or her identity document or using an invalid or another person's identity document as his or her own (Article 75 paragraph 3);
- 8) Using his or her personal name contrary to Article 75 paragraph 4 of this Law.

For a violation from paragraph 1 of this, a foreign person may be subject to the protective measure of expulsion, alone or in addition to a fine.

Article 92

A foreign person shall be fined in the amount of not more than one to fifteen minimum wages in Montenegro per instance in case of:

- 1) A failure to submit an application to be issued a personal identity card for foreigners within 30 days following that of his or her arrival to the current place of residence (Article 77 paragraph 2);
- 2) A failure to submit an application to the competent authority for the substitution of his or her identity card for foreigners within the anticipated time limit (Article 80 paragraph 2);
- 3) A failure to return his or her identity card to the competent authority as specified under Article 81 of this Law;
- 4) A failure to report a disappearance or loss of a document to the competent authority (Article 82); and
- 5) He or she wears a foreign military police or customs officers' uniform during his or her stay in Montenegro contrary to Articles 87 and 88 of this Law.

Article 93

A carrier shall be fined in the amount of not more than fifty to two hundred minimum wages in Montenegro per instance in case of bringing a foreign person who fails to satisfy the requirements from Article 3 of this Law (Article 26) to the border crossing point or in case of failing to take such a person away without any delay and at its own cost.

The responsible person of the corporate entity (carrier) shall be fined in the amount of not more than one half to twenty minimal wages in Montenegro for the violation from

paragraph 1 of this Article.

A decision on the protective measure banning the performance of business activity for a period of not less than one month and not longer than one year may be issued in case of the violation from paragraph 1 of this Article.

XV RECORD KEEPING

Types of Records and Competence for Record Keeping

Article 94

The following records shall be kept: on foreign persons who are permanent residents, temporary residents or transiting through the territory of Montenegro; foreign persons whose residence status was terminated; bans on entries and exits by foreign persons; issued travel documents and visas; issued personal identity cards for foreign persons; issued border crossing passes; registration of residence and notices of departure, that is any change of place of residence or address.

The records from paragraph 1 of this Article shall be kept, within their respective areas of responsibility, by the competent authority, the state administration body responsible for foreign affairs, or a diplomatic or consular representation office.

XVI TRANSITIONAL AND FINAL PROVISIONS

Adoption of Secondary Legislation

Article 95

The following secondary legislation shall be adopted by the Ministry:

- 1) Procedure for the issuing of travel documents and visas, temporary residence and permanent residence permits;
- 2) Forms of travel documents, visas, border passes, identity documents for foreigners; temporary and permanent residence permits; forms for the protective measures, measures of expulsion and cancellation of residence; forms of documents confirming the withholding of financial means, the collection of costs for compulsory deportation, temporary withholding of documents and objects in order to ensure compulsory deportation;
- 3) Manner of ensuring the protection and proper treatment, and the requirements for the legalization of stay of foreign citizens who have been the victims of human trafficking;
- 4) Contents and manner of keeping of the records from Article 94 of this Law;
- 5) Compulsory deportation and placing in the Shelter.

Issuing of Decision on Previously Initiated Proceedings

Article 96

The proceedings that have been initiated before the entrance into effect of this Law shall be completed according to the Law on Movement and Sojourn of Foreign Citizens (Official Gazette of the Socialist Federative Republic of Yugoslavia No 56/80, 53/85, 30/89, 26/90, 53/91 and Official Gazette of the Federal Republic of Yugoslavia No 24/94 and 28/96), if this is more favorable for the foreign person.

Documents that have been issued before this Law enters into effect shall be valid for the following year after this Law enters into effect.

Termination of permanent resident status for foreign citizens who failed to have their respective statuses regulated according to the previous Law

The persons from Article 31 paragraph 1 of the Law on Movement and Sojourn of foreigners who failed to have their respective statuses in Montenegro regulated according to the provisions of that Law shall lose the status of permanent residents following the expiration of one year after this Law enters into effect.

The persons from paragraph 1 of this Article shall be required to satisfy the conditions from Article 42(1) items 2 and 3 of this Law.

Retention of the Status of Foreign Persons Established under the Previous Law

Article 98

The foreigners who have been issued temporary or permanent residence permits, or whose refugee status has been recognized before this Law enters into force shall retain such status.

Repealed Provisions of the Previous Law

Article 99

The Law on Movement and Sojourn of Foreigners (Official Gazette of the Socialist Federal Republic of Montenegro No 56/80, 53/85, 30/89, 26/90, 53/1 and Official Gazette of the Federal Republic of Montenegro 24/94 and 28/96), except for Articles 44 to 60 that shall apply until a special law is adopted, shall be repealed on the day of application of this Law.

Secondary legislation adopted on the basis of the Law on Movement and Sojourn of Foreigners (Official Gazette of the Socialist Federal Republic of Montenegro No 56/80, 53/85, 30/89, 26/90, 53/1 and Official Gazette of the Federal Republic of Montenegro 24/94 and 28/96) shall apply until the secondary legislation provided for hereby is adopted, unless contrary to this Law.

Entrance into Force

172. LAW ON FOREIGNERS

This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro.