

-For the criminalization and processing of human trafficking offences, the main legal acts are the Criminal Code and Criminal Procedure Code.

-The priorities in suppressing trafficking in human beings are marked by the adoption of a set of laws in the area of respective legislation: Criminal Code and Amendments (Official Gazette of MN, No.70/2003, 13/2004, 47/2006, and Official Gazette No. 40/2008), Criminal Procedure Code (Official Gazette of MN, No. 71/2003,7/2004, 47/2006), New Criminal Procedure Code (Official Gazette of MN, No.57/09 from 18.08.2009), Law on Amendments of the Law on Public Prosecutor (Official Gazette of MN, No.40/08), Witness Protection Law (Official Gazette of MN, No.65/2004).

- Criminal offences by which human trafficking act is criminalized are included in the Criminal Code of Montenegro as per its Articles 444 – trafficking in human beings, Article 445 - trafficking of children for adoption, and Article - 446 enslavement of persons and transportation of persons in an enslaved status;

- The Law on Amendments of the Criminal Code (adopted on April 22, 2010 and published in the Official Gazette of MN, No. 25/2010), predicts alteration of the criminal offence of “trafficking in human beings”, with the introduction of a special form of that offence, which incriminates the use of services from a (human trafficking) victim (Paragraph 7, Article 444);

- The processing of perpetrators of these criminal acts is done as per the Criminal Procedure Code.

Trafficking in human beings

Article 444

(1) Anyone who by force or threat, deceit or keeping in delusion, by abuse of authority, trust, relationship of dependency, difficult position of another person or by keeping back identification papers or by giving or receiving money or other benefit for the purpose of obtaining consent of a person having control over another: recruits, transports, transfers, hands over, sells, buys, mediates in sale, hides or keeps another person for exploitation of work, **submission to servitude**, commission of crimes, prostitution or begging, pornographic use, taking away a body part for transplantation or for use in armed conflicts shall be punished by imprisonment for a term of one to ten years.

(2) If the offence referred to in Paragraph 1 of this Article is committed to a juvenile person, the offender shall be liable to imprisonment prescribed for that offence, even if there was no force, threat or any other of the stated methods present in the commission of the crime.

(3) If the offence referred to in Paragraph 1 of this Article is committed to a juvenile, the offender shall be liable to imprisonment for a minimum term of three years.

(4) If offences referred to in Paragraphs 1 and 3 of this Article have caused serious bodily injuries, the offender shall be liable to imprisonment for a term 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 liable to imprisonment 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 liable to imprisonment for a minimum term of five years.

(7) Anyone who uses the services from persons with a knowledge they are subjected to any act referred to Paragraph 1 of this Article, shall be punished with imprisonment from six months to five years.

(8) If the offence referred to in Paragraph 7 of this Article is committed to a juvenile, the offender offender shall be liable to imprisonment from three to fifteen years.

Trafficking in children for adoption

Article 445

(1) Anyone who abducts a person who has not yet reached the age of fourteen for adoption in contravention of current regulations or whoever adopts such a person or mediates in such adoption or whoever for that purpose buys, sells or hands over another person who has not yet reached the age of fourteen or transports, provides accommodation for or hides such a person who has not reached the age of fourteen, shall be punished by imprisonment for a term 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 imprisonment for a minimum term of three years.

Submission to slavery and transportation of enslaved persons

Article 446

(1) Anyone who breaching the rules of international law put another person into slavery or other similar position or keeps another person in such a position, or buys, sells, hands over to another person or mediates in buying, selling or handing over of such a person or induces another person to sell own freedom or freedom of persons he/she supports or looks after, shall be punished by imprisonment for a term of one year to ten years.

(2) Anyone who transports persons in the position of slavery or other similar position from one country to another shall be punished by imprisonment for a term of six months to five years.

(3) For offences referred to in Paragraphs 1 and 2 of this Article committed to a juvenile person, the offender shall be punished by imprisonment for a term of five to fifteen years.

- Within the corpus of criminal offenses against honour and reputation, stipulated are the following criminal acts: “Pimping and enabling of having sexual intercourse” Article 209, and “Mediation in prostitution”, Article 210.

- **“Pimping and enabling of having sexual intercourse”** in the Article 209, presents enabling or providing for sexual intercourse, where the perpetrator of this criminal offence does not personally take part in performing debauchery, an act equal to it or some other sexual act, but is providing to other persons to do so. Social threat of this act and the legislative motive of legal stipulation is that it actually involves juvenile persons as subjects who are being pimped for debauchery.

- The meaning of the criminal offence of pimping a minor, is, in a wider sense, every action by which a minor is being provided to another person for debauchery, similar act to it or other sexual acts. Methods of performing of this offence are various, ranging from transferring messages, establishing contacts, inciting of a minor (to be subjected to this act), etc. Stipulated punishment is imprisonment for a term of three months to five years. Another form of this criminal offense is providing for performing debauchery over a minor by, for example, renting premises, leasing apartments, providing transportation services to the location where the debauchery is performed, etc. Prescribed punishment is imprisonment for a term of up to three years. In both cases, it is considered that the criminal offense has been done by the actual pimping or enabling of debauchery, an act equal to it, or other sexual acts, meaning not necessarily a sexual intercourse.

- **“Mediation in prostitution”** in the Article 209, represents inciting or encouraging of another person to prostitution, taking part in transferring of a person to another person for prostitution, and promoting or advertising of prostitution via means of public communication, or other means. The action of this offense is alternatively specified and ways of performing are stipulated widely, which enables putting a large number of actions of mediation in prostitution to come under the stipulation of this criminal act. Mediation in prostitution can refer to a larger number of persons, but for (considering it

as) abetting, it is enough if only one person is incited, encouraged, recruited or wheedled. In that case, imprisonment sentence for a term from one to ten years is stipulated.

(Qualificative) Aggravated form of this criminal offence is when there is mediation in prostitution of minors/juveniles, in which case the imprisonment sentence varies from one to ten years.

The Criminal Code also stipulates as a criminal offense “Illegal crossing of the state border and smuggling of people”, in the Article 405, in the corpus of criminal offences against public peace and order.

- **The law on Ratification of the Council of Europe’s Convention on Compensation of Victims of Violent Crimes** (Official Gazette of Montenegro – International agreements, No. 6/09), came into force since July 1, 2010. It is predicted the adoption of a special law in accordance with the Convention, by which the national mechanisms for compensation of victims of violent crimes will be stipulated, by the means of confiscation of property from the perpetrators.

- Also, the implementation of the **New Criminal Procedure Code** has commenced. The Supreme State Prosecutor’s Office – Department for Suppression of Organized Crime, Corruption, Terrorism and War Crimes, has started to apply the (new) Criminal Procedure Code – involving a **prosecution concept of investigation**, which defines extended confiscation of property from the perpetrators of organized crime acts, as well as the reversed burden of proving of its origin.

New amendments to the CC, adopted in August 2013:

As a follow up of the GRETA recommendations and in order to comply with the acquis communautaire, Montenegro has, with the articles 13, 28, 43, 44, 70 and 71 of the “law proposing the amendments of the Criminal Code” already adopted by the Parliament of MNE in August 2013:

- a. introduced the two following new forms of exploitation: “slavery and actions resembling slavery” and “entering unlawful marriage”;
- b. introduced aggravating circumstance when criminal offence is committed by official while performing his/her duty;
- c. Increased the age limit from 14 to 18 years in Article 445 which is criminalizing illegal child trafficking for adoption;
- d. Introduced the definition of term – victim of a criminal offence – in the Article 142, paragraphs 11, 12 and 13;
- e. Introduced the two new following articles into the Criminal Code: 295a – Trade in human body parts and 295b – Announcing the trade in human body parts.