

**Information on the actions of the Montenegrin authorities to address the observations contained in the Executive Summary and country report under the first review cycle (Chapters III and IV of the UNCAC)**

**CHAPTER III: CRIMINALIZATION AND LAW ENFORCEMENT**

*While noting Montenegro's continuous efforts to harmonize the national legal system with the UNCAC criminalization and law enforcement provisions, the reviewers identified some challenges in implementation and/or grounds for further improvement and made the following remarks to be taken into account for action or consideration by the competent national authorities (depending on the mandatory or optional nature of the relevant UNCAC requirements).*

- ***Update legislation to include expressis verbis the phrase “directly or indirectly” in the relevant provisions on active and passive bribery of national public officials, in line with the UNCAC;***

In July 2013, the Parliament of Montenegro adopted the Law on Amendments to the Criminal Code of Montenegro (Official Gazette of the Republic of Montenegro 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro 40/2008, 25/2010, 32/2011, 40/2013 and 56/2013)<sup>1</sup>. In this Law, the provisions on active and passive bribery of national public officials (article 423 paragraphs 1 and 2, and article 424 paragraphs 1 and 2) have been amended in accordance with the above recommendation of the reviewers.

The subject articles now read as follows:

***Passive Bribery***

***Article 423***

*(1) A public official who **directly or indirectly** solicits or receives **a bribe or who accepts a promise of a bribe for himself or for another person** for agreeing to perform an official or other act which he must not perform, or not to perform an official or other act which he must perform shall be punished by a prison term from two to twelve years.*

*(2) A public official who **directly or indirectly** solicits or receives **a bribe or who accepts a promise of a bribe for himself or another person** for agreeing to perform an official or other act which he must perform, or not to perform an official or other act which he must not perform shall be punished by a prison term from two to eight years.*

*(3) A public official who commits the offence under paragraphs 1 or 2 above in relation to detection of a criminal offence, initiating or conducting of criminal*

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<sup>1</sup> Law on Amendments to the Criminal Code of Montenegro(Official Gazette of the Republic of Montenegro 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro 40/2008, 25/2010, 32/2011, 40/2013 and 56/2013); Website of the Directorate for Anti-Corruption Initiative of Montenegro (Library/Laws): [http://antikorupcija.me/en/index.php?option=com\\_phocadownload&view=category&id=3&Itemid=301](http://antikorupcija.me/en/index.php?option=com_phocadownload&view=category&id=3&Itemid=301)

*proceedings, pronouncing or enforcing of a criminal sanction shall be punished by a prison term from three to fifteen years.*

*(4) A public official who after performing or refraining from performing an official or other act referred to in paragraphs 1, 2 and 3 above, and in conjunction with such act, solicits or receives a bribe shall be punished by a prison term from three months to three years.*

*(5) Where a responsible officer or another person in an institution or other non-commercial entity commits any of the offences under paragraphs 1, 2 and 4 above shall be punished by the punishment prescribed for that offence.*

*(6) The bribe received shall be confiscated.*

## **Active Bribery**

### **Article 424**

*(1) Anyone who **directly or indirectly** gives, offers or promises **a bribe to a public official for the public official or another person** for agreeing to perform an official or other act he must not perform or not to perform an official or other act he must perform, or anyone who intercedes in bribing a public official in the manner described above shall be punished by a prison term from **one to eight years**.*

*(2) Anyone who **directly or indirectly** gives, offers or promises **a bribe to a public official for the public official or another person** for agreeing to perform an official or other act he must perform or not to perform an official or other act he must not perform, **or anyone who intercedes in bribing a public official in the manner described above** shall be punished by a prison term from **six months to five years**.*

*(3) The punishment may be remitted where a perpetrator of the offences under paragraphs 1 and 2 above had reported the criminal offence before he learned that the crime had been detected.*

*(4) The provisions of paragraphs 1, 2 and 3 above shall also apply when a bribe was given, offered or promised to a responsible officer or other person in an institution or another non-commercial entity.*

During the country visit, an issue was raised with regard to the inconsistency of sanctions within article 424. The reviewers deemed that the maximum penalties provided for active bribery of a public official should follow a uniform approach. **To that end, in the Law on Amendments to the Criminal Code of Montenegro from 2013, the sanctions under article 424 have been amended: in paragraph 1, instead of “six months to five years” it is now “one to eight years”, and in paragraph 2, instead of “up to three years” it is now “six months to five years”.**

- ***Construe the offence of active bribery in the public sector in a way that unambiguously covers instances where the advantage is not intended for the official himself/herself but for a third-party beneficiary;***

In the Law on Amendments to the Criminal Code of Montenegro from July 2013, the provisions on active and passive bribery of national public officials, i.e. article 423 paragraphs 1 and 2, and article 424 paragraphs 1 and

2, have been amended in accordance with the above recommendation of the reviewers. **See the subject articles cited in response to the recommendation above.**

- ***Ensure that the domestic legislation and/or its interpretation provide clarity and consistency regarding the nature of the advantage and its qualification as “undue” in the provision on bribery in the private sector vis-à-vis the corresponding references to “gift or other benefit” in the public sector provision;***

In accordance with the above recommendation of the reviewers, in the Law on Amendments to the Criminal Code of Montenegro from July 2013, the provisions on active and passive bribery of domestic national public officials (articles 423 and 424), as well as those on active and passive bribery in the private sector (articles 276a and 276b), have been amended and uniformed, so that now instead of earlier terms (*undue advantage, gifts and other benefits, etc.*), **the term “bribe” is used**, of which the definition is provided in article 142 paragraph 13 of the Criminal Code.

The subject articles now read as follows:

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

##### ***Article 142***

*(...)*

*(13) Bribe, as used in this Code, shall mean a gift or other undue material or non-material advantage, irrespective of the value.*

*(...)*

#### ***Passive Bribery in Business Sector***

##### ***Article 276a***

*(1) A responsible officer or other person who works for or in a business entity or other business enterprise who for himself or for another person, directly or indirectly, solicits or receives **a bribe or accepts the promise of a bribe** in return for concluding a contract, or reaching a business agreement or providing a service or refraining from such acts to the detriment or in favour of the business entity for which or in which he works or of another person shall be punished by a prison term from one to eight years.*

*(2) The perpetrator of the offence under paragraph 1 above who, after concluding the contract or reaching the business agreement, or providing the services, or refraining from such acts, solicits or receives a bribe or accepts the promise of a bribe for himself or another person shall be punished by a prison term up to three years.*

*(3) The received bribe shall be confiscated.*

#### ***Active Bribery in Business Sector***

##### ***Article 276b***

*(1) Anyone who gives, offers or promises **a bribe** to a responsible officer or other person who works for or in a business entity or other business enterprise, for himself or for another person, in return for concluding a contract or reaching*

*a business agreement or providing a service to the detriment or in favour of the business entity for which or in which he works or of other entity, or who acts as an intermediary in giving a bribe in this way shall be punished by a prison term from six months to five years.*

*(2) Punishment may be remitted where the perpetrator of the offence referred to in paragraph 1 above gave a bribe at the request of the responsible officer or of another person who works for or in a business entity and who had reported the offence before he learned it had been detected.*

*(3) The received bribe shall be confiscated.*

See the articles 423 and 424 of the Criminal Code concerning active and passive bribery of national public officials cited above in the text.

- ***Clarify the interpretation of existing legislative provisions implementing article 17 of the UNCAC to ensure that immovable property falls within their scope of application, in line with article 2 (d) of the UNCAC;***

In accordance with this recommendation of the reviewers, in the Law on Amendments to the Criminal Code of Montenegro (CC) from July 2013, the word “movable” has been deleted from article 420 paragraph 1, and article 421 paragraph 1, so as to ensure that those articles clearly apply to both movable and immovable property.

The subject articles now read as follows:

### ***Embezzlement***

#### ***Article 420***

*(1) Anyone who, with the intention of acquiring undue material benefit for himself or another person, appropriates money, securities or other articles entrusted to him by virtue of his office or work in a state authority, institution or other non-commercial entity, shall be punished by a prison term from six months to five years.*

*(2) Where the offence under paragraph 1 above resulted in material benefit exceeding three thousand Euros, the perpetrator shall be punished by a prison term from one to eight years.*

*(3) Where the offence under paragraph 1 above resulted in material benefit exceeding thirty thousand Euros, the perpetrator shall be punished by a prison term from two to ten years.*

### ***Temporary Diversion of Property***

#### ***Article 421***

*Anyone who, without authorization, diverts money, securities or other articles entrusted to him by virtue of his office or work in a state authority, business entity, institution, or other entity or a crafts establishment, or who, without authorization, temporarily diverts such articles to another person for his use shall be punished by a prison term from three months to three years.*

- ***Continue efforts to ensure that the domestic legislation and/or its interpretation on the confiscation, seizure and freezing of criminal assets and instrumentalities provides a clear, consistent and less fragmented framework to assist police and prosecutors in tackling corruption;***

In accordance with the new approach of the European Commission, Montenegro's accession negotiations have begun with chapters 23 and 24, concerning judiciary and fundamental rights, and justice, freedom and security respectively. During the screening process, certain needs for further specialization of bodies for the fight against corruption and organized crime have arisen. Consequently, adoption of special law on confiscation of assets from criminal activity and improvement of financial investigations have been foreseen in the Action Plan for negotiating Chapters 23 and 24, the most important strategic and development documents in the area of fight against corruption and organized crime, which contains specific objectives and measures to be implemented in the process of integration of Montenegro into the European Union.

In order to improve financial investigations, it is necessary to establish better functional connections between bodies keeping data necessary to conduct financial investigations with the prosecutor's office, to employ a certain number of experts - analysts, and exchange experience on regional and international level, especially as the assets from crime are often kept on the territories of different countries.

Therefore, in 2014, Montenegro started drafting legislation on confiscation and management of assets from criminal activity. The Draft Law has been prepared and submitted to the European Commission for comments and suggestions.

In accordance with international standards, contained in the documents of the European Union, United Nations and Council of Europe, a number of legal solutions have been proposed in the Draft Law on Confiscation and Management of Assets from Criminal Activity.

The most important EU standards that the Draft Law complies with include: Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union and Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property.

The Draft Law has been harmonised with the following standards of the Council of Europe and United Nations:

- European Convention for the Protection of Human Rights and Fundamental Freedoms
- European Convention on Mutual Assistance in Criminal Matters
- Convention implementing the Schengen Agreement (article 51)

- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism
- Council of Europe Criminal Law Convention on Corruption
- Convention for the Suppression of Counterfeiting Currency
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.
- United Nations Convention against Transnational Organized Crime
- United Nations Convention against Corruption.

The Draft Law stipulates the conditions and procedure for the confiscation of assets from criminal activity, and other issues of importance for the confiscation of assets, management of assets confiscated pursuant this Law, management of confiscated assets, instrumentalities and seized assets in criminal and misdemeanour proceedings and assets used as collateral.

The procedure for confiscation of assets from criminal activity can be used before, during and after the end of criminal proceedings.

The assets, for which there is reasonable doubt they were acquired from criminal activity, and for which the offender fails to prove its legal origin, may be confiscated from the offender (extended confiscation), as well as if the offender is convicted for a following criminal offence under the Criminal Code of Montenegro:

- 1) Abduction, article 164
- 2) Child pornography, article 211
- 3) Against property (articles 240, 241, 242, 243, 244, 244a; 250, 251, 252)**
- 4) Against payment transactions and business operations (articles 258, 259, 260, 262, 264, 265, 270, 272, 273, 274, 276, 276a i 276b, 281 and 281a)**
- 5) Unauthorized production, possession and release into circulation of narcotic drugs, article 300
- 6) Against security of computer data (articles 350, 352 i 353)
- 7) Against public law and order (articles 401, 401a, 402, 404 i 405);
- 8) Against official duty (articles 416, 419, 420, 422, 422a, 423 i 424);**
- 9) Against humanity and other values protected under international law (articles 444, 445, 446, 447, 447a, 447b, 447c, 447d, 449, 449a and 449b).

The court decides on the confiscation of assets from criminal activity. The authorities responsible for the detection of assets from criminal activity are police, public prosecutors. Public authority responsible for management of confiscated assets will manage assets from criminal activity, confiscated assets, instrumentalities and assets seized in criminal and misdemeanour proceedings and assets used as collateral.

The terms used in the Draft Law are determined in accordance with the international conventions, which Montenegro signed and ratified, so the Draft Law defines the terms: assets, owner, defendant, third party, legal successor, damaged, counsel, attorney and conscientious third person.

According to the Government Work Programme for 2015, and AP 23 and AP 24, the Government should adopt the Proposal of the Law by the end of June 2015, while the Parliament should pass it by the end of October 2015.

- ***Amend, as appropriate, the legislative provision on obstruction of evidence/justice to expand the scope of witnesses, expert witnesses or other participants in criminal proceedings so as to include their family members and/or close relatives;***

In the Law on Amendments to the Criminal Code of Montenegro from 2013, article 390 paragraph 1 has been amended to include members of families of witnesses, experts or other participants in criminal proceedings, pursuant to this recommendation of the reviewers.

#### ***Interference in Production of Evidence***

##### ***Article 390***

*(1) Anyone who gives, offers or promises a gift or other undue advantage to a witness or expert witness or other participant before a court or other state authority, or a member of his family or family community, or who uses force or threat against that person in order for that person to affect the outcome of the proceedings by giving false testimony or by refraining from giving a testimony shall be punished by a prison term from six months to five years.*

*(...)*

- ***Ensure that the domestic legislation provides for a longer statute of limitations period for minor corruption offences carrying imprisonment falling within the jurisdiction of the Basic Court.***

In the Law on Amendments to the Criminal Code of Montenegro from 2013, Article 129 has been amended so as to provide that the prosecution and enforcement of the sentence does not expire for criminal offences prescribed in articles 264 to 276b, 401, 401a, 422 to 424 and 426 to 431 of this Code, and for other criminal offences for which, pursuant to ratified international treaties, there are no statutes of limitations.

## **CRIMINALIZATION AND LAW ENFORCEMENT: OTHER IMPORTANT DEVELOPMENTS**

### **UNCAC Article 33 Protection of reporting persons**

***Bearing in mind the optional nature of article 33 of the UNCAC, the review team noted that, despite the existence of a nexus of provisions of labour***

***law and civil servants legislation on the protection of reporting persons, there was still no special legislation in Montenegro ensuring such protection. It was highlighted, in response, that the national authorities have undertaken steps to adopt a special law on persons who report corruption. The review team encouraged the Montenegrin authorities to continue ongoing efforts to adopt such a law.***

To that end, in December 2014, the Parliament of Montenegro adopted the Law on Prevention of Corruption<sup>2</sup>. This Law, which enters into force on January 1<sup>st</sup> 2016, prescribes measures for prevention of conflict of public and private interest; regulates restrictions in the exercise of public functions, submission of reports on assets and income by public officials, **protection of persons reporting threats to the public interest that indicate the existence of corruption**, as well as other issues of importance to the prevention and suppression of corruption.

**Part III of the Law provides for a comprehensive framework for the protection of whistleblowers (Articles 44 – 70).** Those articles, inter alia, stipulate the following, in detail: filing corruption reports by a whistleblower to a public authority, company, other legal person or entrepreneur in which, to their information, there are reasonable grounds for suspecting that there is a threat to the public interest that indicates the existence of corruption (hereinafter: authority/company); the contents of the report; data confidentiality; actions or proceedings of the authority/company: designation of persons for receiving and acting upon reports in those authorities/companies: notifications on measures taken; reporting corruption to the Agency for the Prevention of Corruption (hereinafter: the Agency); acting of the Agency upon the report and ex officio; opinions and recommendations of the Agency; protection of whistleblowers' identity and rights; filing criminal charges and assignment of proceedings to competent authorities for protection of whistleblowers; obligations of the Agency with respect to the whistleblower's right to protection; the burden of proof; third parties involvement; assistance by the Agency; termination of damage, and award for whistleblowers.

According to the Law, whistleblower is any natural or legal person filing a report on a threat to public interest that indicates the existence of corruption (Article 4). Whistleblower having reasonable grounds to believe that there is a threat to the public interest indicating the existence of corruption, may file the report, in accordance with the Law. The threat to the public interest means any violation of regulations, ethical rules or the possibility of such a violation, which caused, causes or threatens to cause danger to life, health and safety of people and the environment, violation of human rights or material and non-material damage to the state or a legal or natural person, as well as an action that is aimed at preventing such a violation from being discovered (Article 44).

Acting upon the whistleblower's report, an authority/company verifies the allegations of threats to the public interest indicating the existence of corruption

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<sup>2</sup> Law on Prevention of Corruption; Website of the Directorate for Anti-Corruption Initiative (Library/Laws):

[http://antikorupcija.me/en/index.php?option=com\\_phocadownload&view=category&id=3&Itemid=301](http://antikorupcija.me/en/index.php?option=com_phocadownload&view=category&id=3&Itemid=301)



and takes measures within its jurisdiction in order to prevent the threat to public interest indicating the existence of corruption. That authority/company must inform the whistleblower on the measures taken within 45 days (Articles 48 and 50).

If the whistleblower has not been informed, or is not satisfied with the notification or the measures taken by the authority/company in question, he or she may file the report to the Agency. The whistleblower may also file the report to the Agency without prior submission of the report to the authority/ company to which the report relates to (Article 51).

The Agency prepares an opinion on the existence of threats to the public interest that indicate the existence of corruption, and if it determines that the threat exists, it also prepares recommendations and the deadline for acting on the recommendations to the authority/ company in question (Article 52). Should the authority/ company fail to act or inform the Agency on measures taken within the set deadline, the Agency informs the supervisory body of that authority/company, and submits a special report to the Parliament and informs the public thereof (Article 53).

The authority/company, as well as the Agency, handle the whistleblower report data, in accordance with the law governing data confidentiality, and provide for the protection against all forms of discrimination and restrictions and denial of the whistleblowers' rights (Article 56).

The Agency protects whistleblowers that have reasonable grounds to believe that there are threats to the public interest indicating the existence of corruption and who report this suspicion in good faith (Article 58).

The whistleblower is entitled to protection if he or she has been inflicted damage, or if there is a possibility of damage due to his or her filing of the report, and in particular if: his or her life, health and assets are at risk; his or her employment has been terminated or his or her work position has been abolished or changed, or if the description of duties and the conditions of the work position where he or she used to work have been changed; his or her business cooperation has been terminated through a termination of service contract or contract on business cooperation; disciplinary proceedings have been instituted against him or her and if a disciplinary measure has been imposed on him or her; he or she has been prohibited from accessing certain data required for the performance of his or her working duties; he or she has been deprived of the means for work; or his or her promotion and professional development has been prevented (Article 59).

Furthermore, whistleblowers are entitled to judicial protection against discrimination and harassment at work based on reporting threats to the public interest that indicate the existence of corruption, which they shall exercise in accordance with the law governing the prohibition of discrimination and the law governing the prohibition of harassment at work (Article 68),

Additionally, draft amendments to the Law on Criminal Proceedings would establish additional protections for witnesses in criminal cases.

As of January 1<sup>st</sup> 2016, the tasks of the prevention of conflicts of public and private interest, restrictions in the exercise of public functions, verification of the reports on income and assets by public officials, handling of whistleblower reports, whistleblower protection, as well as other activities in accordance with the Law on prevention of corruption, will be performed by the Agency for the Prevention of Corruption. The Agency will be an autonomous and independent body, established by the Parliament of Montenegro, in accordance with the said Law. (Article 4)

### **UNCAC Article 36. Specialized authorities**

Following the objectives set forth in the Judicial Reform Strategy 2014 – 2018, under the objective of improving the efficiency of the judiciary, Montenegrin authorities prepared the Law on the Special Public Prosecutor's Office, in order to create a legal basis for the establishment of the Special Public Prosecutor's Office, as a special state prosecutor's office for the fight against organized crime and corruption.

In February 2015, the Parliament of Montenegro adopted the **Law on Special Public Prosecutor's Office**<sup>3</sup>. This law regulates the organization and jurisdiction of the Special Public Prosecutor's Office, the conditions and procedure for the election of Chief Special Prosecutor and special prosecutors, and the relations with other public bodies and government authorities, as well as other issues of importance for the work of the Special Public Prosecutor's Office.

Special Public Prosecutor's Office is established for the territory of Montenegro, within the State Prosecutor's Office, and based in Podgorica. Special Public Prosecutor's Office takes all actions within its jurisdiction before the Special Division of the High Court in Podgorica.

Special Public Prosecutor's Office is responsible for prosecuting the perpetrators of the following criminal offences:

- 1) organized crime, regardless of the severity of the punishment;
- 2) high corruption:
  - a) if the public official committed the following crimes:
    - Abuse of Office,
    - Fraud in the Conduct of Official Duty,
    - Trading in influence,
    - Incitement to trading in influence,
    - Passive bribery,
    - Active bribery,
  - b) if the acquired material benefit from executing the criminal offences below exceeds the amount of forty thousand euros:
    - Abuse of Position in Business Activity

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<sup>3</sup> The Law is not yet available in English.

- Abuse of Authority in Business Operations
- 3) Money laundering;
- 4) Terrorism; and
- 5) War crimes.

For the purpose of this Law, a public official is a person elected, appointed or designated in a state authority, state administration body, local government authority, local government body, an independent body, a regulatory body, public institution, public company or other business enterprise or a legal entity exercising public authority, or performing activities in the public interest, or owned by the state, as well as a person whose election, appointment or designation is approved by an authority.

Criminal prosecution under this Law is carried out by the Chief Special Prosecutor and special prosecutors. For his or her work and the work of the Special Public Prosecutor's Office, the Chief Special Prosecutor answers to the Supreme State Prosecutor, and special prosecutors for their work answer to the Chief Special Prosecutor.

Monitoring of the work of the Special Public Prosecutor's Office is performed by the Supreme State Prosecutor's Office. The Special Public Prosecutor's Office has departments and offices. Departments for criminal prosecution, financial investigations, analytics and research and international cooperation, and offices for public relations, professional, administrative and technical tasks.

### **UNCAC Article 38. Cooperation between national authorities**

In April 2014, the State Prosecutor's Office and the Ministry of Interior - Police Directorate concluded the Agreement on joint work during preliminary investigation and criminal proceedings<sup>4</sup>, in order to establish a functional cooperation between the two parties, and provide for an efficient application of the Criminal Procedure Code, Law on Public Prosecutor's Office and Law on Internal Affairs.

The Agreement governs the joint work of the State Prosecutor's Office and the Ministry of Interior - Police Directorate in the conduct of preliminary investigation, conducting evidentiary actions and investigations, as well as during the criminal proceedings, in order to efficiently detect and prosecute offenders, and exercise the rights and protection of victims of crimes. The Agreement also defines the basic rules on informing the public about the cases being investigated.

The provisions of the Agreement are applied in relation to the actions taken during the investigations of the crimes that are prosecuted ex officio, and in particular to:

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<sup>4</sup> The Agreement is not yet available in English.

- 1) the powers and actions of the police in the preliminary investigation and informing the public prosecutor about the received criminal charges or the beginning of exercising police powers and undertaking actions during the preliminary investigation,
- 2) directing the police actions during the preliminary investigation by the State Prosecutor's Office,
- 3) evidentiary actions,
- 4) the work on complex and high profile cases and coordination of work in these cases, and
- 5) arrests and detention.

#### **CHAPTER IV: INTERNATIONAL COOPERATION**

***The following remarks are brought to the attention of the Montenegrin authorities for their action or consideration (depending on the mandatory or optional nature of the relevant UNCAC requirements) with a view to enhancing international cooperation to combat offences covered by the UNCAC:***

- ***Consider the inclusion of a provision on accessory extradition, in line with article 44, paragraph 3 of the UNCAC, when updating the LMLACM;***

In 2013, the Parliament of Montenegro adopted **the Law on Amendments to the Law on Mutual Legal Assistance in Criminal Matters (Official Gazette of Montenegro 04/2008 and 36/2013)**, which contains the provisions implementing the above recommendation of the reviewers.

#### **Article 13**

*(1) The extradition shall not be granted for the criminal offence punishable under the domestic law and the law of the Requesting State by imprisonment for a term of up to one year or a fine.*

*(2) If the extradition of the sentenced person is requested to serve the sentence, his extradition shall not be granted if the duration of the imposed imprisonment sentence or the remaining portion thereof which is yet to be served does not exceed four months.*

*(3) If the extradition request is related to the accused or convicted of various offenses, of which conditions for extradition for one criminal offense were met, pursuant to paragraphs. 1 and 2 of this Article, extradition may be allowed for the crimes for which these conditions have not been met.*

- ***Continue to ensure that any offence established in accordance with the UNCAC is not considered as a political offence that may hinder extradition, especially in cases involving persons “entrusted with prominent public functions”, whereby allegations of the political nature of the offence/political persecution in the requesting State may arise;***

The observation has been acknowledged by the Montenegrin authorities and is being considered in practice

- ***Extend, when updating the LMLACM, the maximum duration of detention for the purpose of extradition without submission of a relevant request by the requesting State;***

Concerning this observation, Montenegrin authorities continued to implement it pursuant to the European Convention on Extradition from 1957, to which Montenegro is a party.

- ***Ensure, when updating the LMLACM, that the provision on the reasoning of refusal of extradition requests is expanded to cover MLA requests as well;***

This matter will be considered during future amendments to the Law on Mutual Legal Assistance in Criminal Matters.

- ***Streamline efforts to create a case management system containing a database with statistics and practical examples/cases for both extradition and MLA, which will provide a better picture of how the relevant legal framework is implemented in practice;***

Recognizing effective judicial cooperation in criminal and civil matters as one of the key challenges in striving to more effectively prevent and combat crime, the Ministry of Justice of Montenegro seeks to provide, not only legislative but also technical prerequisites for improving efficiency in handling the cases in mutual legal assistance.

In 2014, the Ministry of Justice launched the project aimed at introducing an electronic case management system for international legal assistance LURIS, with the support of the Kingdom of the Netherlands.

The system became operational on 16 January 2015, and it will enable the Ministry of Justice, as the focal point for international legal assistance, to accurately track the number of received legal assistance requests and other requests, and improve the mechanisms for statistical reporting in the area of international legal assistance in civil and criminal matters.

The system will contribute to achieving better analysis of international judicial cooperation and assessment and screening efficiency in dealing with requests from the EU and third countries. Quality records and operational methods of statistical reporting will be an effective monitoring tool for assessing the level of regional and international cooperation in the areas of justice.

LURIS can be adjusted and expanded according to the needs of the Ministry, so that in future stages of implementation it could serve as a platform for regional cooperation and exchange of information in the area of international legal assistance. By implementing this system, the Ministry of Justice will have multiple benefits. Increased accuracy of data in the case records of international legal assistance will provide for high-quality statistical reporting to the European Union and other international organizations, as well as an improved overview for the needs of managing staff, in terms of the need to strengthen the administrative capacity of the Ministry of Justice in this area.

Also, one of the purposes of the system is to assist in the processing and monitoring of requests for legal assistance, storing relevant information on all documents of interest for mutual legal assistance, and to facilitate the search and retrieval of documents, cases and related data, generate reports and outgoing documents. Reporting will be enabled by the type of legal assistance, crime, the requesting State, the competent authority, as well as by all the other parameters that are required in order to accurately monitor the process and procedure for providing legal assistance and the work efficiency of the public servants in the Ministry.

- ***Continue to explore opportunities to actively engage in bilateral and multilateral agreements with foreign countries (particularly non-European countries), with the aim to enhance the effectiveness of different forms of international cooperation;***

This is a long-term goal of Montenegrin authorities. Bearing in mind the extent of cooperation in the field of international legal assistance, Montenegro has concluded bilateral agreements with a number of neighbouring countries, including the Republic of Italy, and Montenegro is a signatory to all relevant multilateral agreements and conventions in this field, as reported