

MONTENEGRO

October 2013

www.coe.int/terrorism

NATIONAL POLICY

Montenegro is fully committed to combating all forms of terrorist activities and the financing of terrorism. It is obvious that countries by themselves cannot effectively combat a threat such as terrorism. Thus Montenegro is open to international co-operation in order to help collect the necessary evidence and data for the effective suppression of those threats and also to exchange knowledge and experience with other colleagues.

Being a member of the relevant UN organisations, INTERPOL and SECI Centre, Montenegro is committed to co-operation in order to combat all forms of terrorist activity.

In 2010 the Government of Montenegro formed the National Committee whose main tasks are to:

- manage, organise, co-ordinate and monitor activities of state authorities, authorities of state administration and other responsible institutions in conducting the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing (hereinafter: the Strategy);

- establish priorities, dynamics and deadlines for implementation, as well as estimate the results achieved by the implementation of the Strategy, and the activities and measures defined by the Action plans;

- whenever needed, and at least twice a year, submit to the Government of Montenegro a report on activities carried out together with an assessment of the situation as well as suggestions for further measures.

In order to work efficiently, the National Committee may establish permanent or temporary teams of experts, engage representatives of state authorities, authorities of state administration and other responsible institutions, as well as request the professional assistance of international organisations and institutions.

The National Committee may request information, explanations and reports from state authorities, authorities of state administration and other responsible institutions in relation to the prevention

and suppression of terrorism, money laundering and terrorism financing issues.

Last year the Committee appointed four contact points in order to collect the necessary information from the relevant institutions, which would serve as a basis for a new Action plan for the implementation of the Strategy which will cover the period of 2013-2014. In July 2013 the action plan for suppression of terrorism, money laundering and financing of terrorism was adopted.

LEGAL FRAMEWORK

General information

The incrimination of the various terrorist activities is contained in the national Criminal Code which has been amended several times in last couple of years in order to fully cover all requirements from the relevant ratified international conventions. Thus, the criminal offences of terrorist activities and financing of such activities are fully in line with the UN and Council of Europe Conventions.

Criminal law

The Criminal Code of Montenegro incriminates the following offences: Terrorism (article 447 of the Criminal Code), Public call for the commission of terrorist acts (article 447a of the Criminal Code), Recruitment and training for commission of terrorist acts (article 447b of the Criminal Code), Use of the lethal device (article 447c of the Criminal Code), Destruction or damage of nuclear facility (article 447d of the Criminal Code), Endangering persons under international protection (article 448 of the Criminal Code), Financing of terrorism (article 449 of the Criminal Code), Terrorist association (article 449a of the Criminal Code).

The incrimination of the above mentioned criminal offences is as follows:

Terrorism Article 447

(1) Anyone who, with the intention to seriously intimidate the citizens or to coerce Montenegro, a foreign state or an international organization to act

or refrain from acting, or to seriously endanger or violate the basic constitutional, political, economic or social structures of Montenegro, foreign state or of international organization, commits any of the following offences:

- 1) attack on the life, body or freedom of another,
- 2) abduction or hostage taking,
- 3) destruction of state or public facilities, traffic systems, infrastructure, including information systems, fixed platforms in the epicontinental shelf, public good or private property that may endanger the lives of people or cause considerable damage to the economy,
- 4) hijack of aircraft, vessel, means of public transport or transport of goods that may endanger the lives of people,
- 5) development, possession, procurement, transport, provision or use of weapons, explosives, nuclear or radioactive material or devices, nuclear, biological or chemical weapons,
- 6) research and development of nuclear, biological and chemical weapons,
- 7) emission of dangerous substances or causing fires, explosions or floods or taking other generally dangerous actions that might harm the lives of people,
- 8) obstruction or termination of water supply, electric energy or another energy generating product supply that might endanger the lives of people shall be punished by a prison term not shorter than five years.

(2) Anyone who threatens to commit the criminal offence under para. 1 above shall be punished by a prison term from six months to five years.

(3) Where the offence under para. 1 above resulted in the death of one or more persons or a large-scale destruction, the perpetrator shall be punished by a prison term not shorter than ten years.

(4) Where during the commission of the offence under para. 1 above the perpetrator killed one or several persons with wrongful intent, he shall be punished by a prison term not shorter than twelve years or by a forty year prison term.

Public Call for the Commission of Terrorist Acts Article 447a

Anyone who publicly calls for or otherwise instigates the commission of the criminal offence under Art.447 hereof shall be punished by a prison term from one to ten years.

Recruitment and Training for Commission of Terrorist Acts Article 447b

(1) Anyone who for the purpose of committing the offences under Art.447 hereof recruits another person to commit or participate in the commission of that offence or to join a group of people or a criminal association or criminal organization in view of participating in the commission of that criminal offence shall be punished by a prison term from one to ten years.

(2) The punishment under para. 1 above shall also apply to anyone who, with the intention to commit the criminal offence under Art.447 hereof, gives instructions on the manufacture and use of explosive devices, firearms or other weapons or harmful or dangerous substances or who trains another person for the commission of or participation in the commission of that criminal offence.

Use of Lethal Device Article 447c

(1) Anyone who, with the intention to kill another person, inflict a serious bodily injury, or destroy or significantly damage a state or public facility, public traffic system or another facility of great significance for the security or supply of citizens, or for the economy or operation of public services, manufactures, transfers, keeps, gives to another, sets up or activates a lethal device (explosive, chemical devices, biological devices or poisons or radioactive materials) in a public location or in a facility or next to that facility shall be punished by a prison term from one to eight years.

(2) Where in the commission of any of the offences under para. 1 above the perpetrator inflicted with wrongful intent a serious bodily injury to another person or destroyed or significantly damaged a facility, he shall be punished by a prison term from five to fifteen years.

(3) Where in the commission of any of the offences under para. 1 above the perpetrator killed with wrongful intent one or more persons, he shall be punished by a prison term not shorter than ten years or by a forty year prison term.

Destruction or Damage of Nuclear Facility Article 447d

(1) Anyone who, with the intention to kill another person, inflict a serious bodily injury, endanger the environment or cause significant property damage, destroys or damages a nuclear facility in a manner

which results or could result in the emission of radioactive material shall be punished by a prison term from two to ten years.

(2) Where in the commission of any of the offences under para. 1 above the perpetrator inflicted with wrongful intent a serious bodily injury to another person or destroyed or significantly damaged a nuclear facility, he shall be punished by a prison term from five to fifteen years.

(3) Where in the commission of any of the offences under para. 1 above the perpetrator killed with wrongful intent one or more persons, he shall be punished by a prison term not shorter than ten years or by a forty year prison term.

Endangering Persons under International Protection Article 448

(1) Anyone who commits abduction or other type of violence against a person under international legal protection shall be punished by a prison term from two to twelve years.

(2) Anyone who attacks the official premises, private apartment or vehicle of a person under international legal protection in a manner that endangers his safety and personal freedom shall be punished by a prison term from one to eight years.

(3) Where the offences under paras 1 and 2 above resulted in the death of one or more persons, the perpetrator shall be punished by a prison term from five to fifteen years.

(4) Where in the course of commission of the offences under paras 1 and 2 above the perpetrator killed another person with wrongful intent, he shall be punished by a prison term not shorter than ten years or by a forty year prison term.

(5) Anyone who endangers the safety of the person referred to in para. 1 above by a serious threat to attack him, his official premises, private apartment or a vehicle shall be punished by a prison term from six months to five years.

Terrorism Financing Article 449

(1) Anyone who procures in any manner or raises funds with the intention to use them partly or wholly for financing of the criminal offences under Articles 447, 447a, 447b, 447c, 447d and 448 hereof, or for the financing of organizations which have set the commission of these offences as their aim or of

members of such organizations or individuals which set the aim the commission of those offences shall be punished by a prison term from one to ten years.

(2) The funds from the para 1 are defined as all funds, tangible or intangible, movable or immovable however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including bank credits, travelers cheques, bank cheques, money orders, shares, securities and other funds

(3) The resources referred to in para. 1 above shall be confiscated.

Terrorist Association Article 449a

(1) Where two or more persons mutually associate for a longer period to commit the criminal offences under Articles 447,447a, 447b, 447c, 447d, 448 and 449 hereof, they shall be punished by the punishment prescribed for the offence for the exercise of which the association has been organized.

(2) The perpetrator of the offence under para. 1 above prevents the commission of the criminal offences under para. 1 above by revealing the association or otherwise, or who contributes to its revelation shall be punished by a prison term up to three years, and his punishment may be remitted.

Procedural Rules

There are no separate legal provisions for conducting cases of terrorism, the general principles and rules are applied.

In order to effectively combat terrorist activities, our Criminal Procedure Code provides the possibility of using special investigative measures. In the Criminal Procedure Code there is a list of the offences for which these measures can be applied and criminal offences related to the terrorist activities are included in the list. The measures are ordered by a Court or the competent prosecutor depending on which measure will be applied.

The measures ordered by the Court are: secret surveillance and technical recording of telephone conversations or other communications carried out through devices for distance technical communication, as well as private conversations held on private or public premises or in the open; secret photographing and video recording on private premises; secret supervision and technical recording of persons and objects.

The measures that the Prosecutor can order are: simulated purchase of objects or persons and simulated giving and taking of bribe; supervision of the transportation and delivery of objects related to criminal offences; recording of conversations having previously informed and obtained the consent of one of interlocutors; and use of undercover investigators and collaborators. These special measures can last up to a maximum of 7 months.

It is worth mentioning that in Montenegro prosecutors are in charge of leading the investigation and there is a special department within the Supreme State Prosecutor's Office competent for the criminal offences related to terrorism.

Other relevant legislation

In Montenegro there is a special law for witness protection that has been in place since 2004. The law regulates conditions and procedures for providing out-of-court protection and assistance to a witness, when reasonable fear exists that testifying for the purpose of bringing evidence about the criminal offences in connection with which the protection may be provided under this Law, would expose the witness to severe danger to life, health, corporal inviolability, freedom or property on a large scale, where other measures do not suffice. The law prescribes that the protection of a witness and person close to him or her shall be provided through the application of the Protection Programme. The Protection Programme is a set of measures set out in the law which are applied with a view to protecting life, health, corporal inviolability, freedom or property on a large scale of the witness or a person close to him or her. The protection programme can be applied in all the criminal offences set out in the Montenegrin Criminal Code that are related to terrorist activities and that are listed in this profile.

INSTITUTIONAL FRAMEWORK

The Competent authorities for combating terrorism in Montenegro are:

- Police Administration
- Agency for National Security
- Ministry of Defence
- FIU of Montenegro
- Supreme State Prosecutor's Office- Department for Suppression of Organised Crime, Corruption, Terrorism and War Crime

INTERNATIONAL CO-OPERATION

Montenegro is a member of INTERPOL and on a daily basis it co-operates with national law enforcement agencies and INTERPOL member countries in conducting international criminal investigations.

It is worth mentioning that relevant law enforcement agencies do have bilateral or multilateral treaties that can serve as a basis for the effective exchange of information necessary for the suppression of the terrorist and their activities.

International co-operation in Montenegro is carried out based on the ratified conventions dealing with the international co-operation and based on the law on mutual legal assistance in criminal matters. The law is applicable where there is no international agreement or if certain issues are not regulated under an international agreement. In this case, international legal assistance shall be provided in accordance with this law, provided that there is reciprocity or that it can be expected that the foreign state would execute the letter rogatory for international legal assistance of the domestic judicial authority.

Extradition is carried out according to the law on mutual legal assistance in criminal matters and according to the relevant international agreements. The extradition of the Montenegrin citizens is not permitted except where there is a bilateral agreement.

Relevant Council of Europe conventions – Montenegro	Signed	Ratified
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism [CETS No. 198]	16.05.2005	20.10.2008
Council of Europe Convention on the Prevention of Terrorism [CETS No. 196]	16.05.2005	12.09.2008
Convention on Cybercrime [ETS No. 185]	07.04.2005	03.03.2010
Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems [ETS No. 189]	07.04.2005	03.03.2010
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime [ETS No. 141]	09.10.2003	09.10.2003
European Convention on the Compensation of Victims of Violent Crimes [ETS No. 116]	08.03.2010	19.03.2010
European Convention on the Suppression of Terrorism [ETS No. 90]	15.05.2003	15.05.2003
Protocol amending the European Convention on the Suppression of Terrorism [ETS No. 190]	15.05.2003	28.04.2010
European Convention on the Transfer of Proceedings in Criminal Matters [ETS No. 73]		30.09.2002 (accession)
European Convention on Mutual Assistance in Criminal Matters [ETS No. 30]		30.09.2002 (accession)
Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 99]		23.06.2003 (accession)
Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 182]	07.04.2005	20.10.2008
European Convention on Extradition [ETS No. 24]		30.09.2002 (accession)
Additional Protocol to the European Convention on Extradition [ETS No. 86]		23.06.2003 (accession)
Second Additional Protocol to the European Convention on Extradition [ETS No. 98]		23.06.2003 (accession)
Third Additional Protocol to the European Convention on Extradition [CETS No. 209]	-	-
Fourth Additional Protocol to the European Convention on Extradition [CETS No. 212]	-	-

Relevant United Nations conventions – Montenegro	Signed	Ratified
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 1973)		23.10.2006
International Convention against the Taking of Hostages (New York, 1979)		23.10.2006
International Convention for the Suppression of Terrorist Bombings (New York, 1997)		23.10.2006
International Convention for the Suppression of the Financing of Terrorism (New York, 1999)		23.10.2006
International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 2005)		23.10.2006
Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963)		20.12.2007
Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, 1970)		20.12.2006 (succession)
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971)	03.06.2006	11.12.2006
Convention on the Physical Protection of Nuclear Material (Vienna, 1971)		21.03.2007
Amendment to the Convention on the Physical Protection of Nuclear Material (Vienna, 2005)	-	-
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1988)		20.12.2006 (succession)
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988)		23.10.2006 (succession)
2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (London, 2005)		
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 1988)		22.02.2007
2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (London, 2005)		
Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1991)	-	-