

MONTENEGRO

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry into Force
UN Convention on the Rights of the Child		23 Oct 2006 d ¹	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography		23 Oct 2006 d	
Protocol to Prevent, Suppress and Punish Trafficking in Persons		23 Oct 2006 d	
UN Optional Protocol on the Involvement of Children in Armed Conflict		2 May 2007 d	
UN Convention for the Protection of All Persons from Enforced Disappearance	6 Feb 2007	20 Sep 2011	
Hague Convention on International Child Abduction		1 Mar 2007 d ²	3 Jun 2006

In Montenegro, there are five laws that refer directly or indirectly to missing children:

1. Criminal Code 2003, amended in 2016;
2. Family Law of the Republic of Montenegro of 2007;
3. Foreigners Law 2008, amended in 2014;
4. Law on Travel Documents of 2008; and
5. Law on Social and Child Protection of 2013, amended in 2017.

General Child Protection

In 2013, the first child protection database was launched in Montenegro with the goal of providing reliable data on the situation of children and services provided within Montenegro's social welfare system.³ The database allows for evidence-based planning and monitoring of child protection services and enables the measurement of progress.

¹ See Convention on the Rights of the Child, U.N. Treaty Collection Status Chart, at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en (last visited Mar. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

² See Convention of 25 October 1980 on the Civil Aspects of International Child Abduction: Status Table, at <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24> (last visited Mar. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

³ UNICEF, *The first child protection database successfully launched in Montenegro*, Mar. 22, 2013, at https://www.unicef.org/montenegro/media_23927.html (last visited Apr. 2, 2018).

In 2013, Montenegro also passed the Law on Social and Child Protection, which outlines the country's social welfare system and advocates for the rights of children.⁴ This law provides an overview of persons in need of special protection such as children without parents and neglected children.

The Institute for Social and Child Protection was created in 2013 under the Law on Social and Child Protection as an independent administrative body focused on development and professional support including research, monitoring, advising, and providing expert supervision of child protection as well as capacity building of professionals.⁵

Additionally, in 2013 the government adopted the National Action Plan for Children (NPAC) 2013-2017,⁶ which provided a strategy toward compliance with the country's obligations under the UN Convention on the Rights of the Child (CRC) including preventing child sexual abuse, exploitation and child trafficking, and improving social services for street children.⁷ At the completion of the National Action Plan, an analysis was undertaken at the request of the Ministry of Labor and Social Welfare and a report was published in January 2018 to determine the achievements and the gaps in protecting and improving children's rights.⁸ The analysis contributed to the development of the newly adopted Strategy for the Development of Social and Child Protection Systems 2018-2022.⁹

Further, under the Global Initiative to End All Corporal Punishment of Children, amendments to the Montenegrin Family Law were passed in July 2016 to include the prohibition of corporal punishment of children in all settings.¹⁰

Montenegro is a Pathfinder country in the Global Partnership to End Violence Against Children. This status means that the country has committed to three to five years of accelerated action toward achieving Target 16.2 of the UN Sustainable Development Goals (SDGs) to end abuse, exploitation, trafficking and all forms of violence and torture against children.¹¹ To help meet these goals, the National Strategy on Protection of Children from Violence 2017-2021 was adopted.¹²

⁴ Law on Social and Child Protection of 2013, amended 2017, at <http://www.mrs.gov.me/ResourceManager/FileDownload.aspx?rid=138617&rType=2&file=Law%20on%20Social%20and%20Child%20Protection%20of%20Montenegro.docx> (last visited Apr. 5, 2018) (on file with International Centre for Missing & Exploited Children).

⁵ Institute for Social and Child Protection, *About the Institute*, at <http://www.zsdzcg.me/organizacija/o-zavodu> (last visited Apr. 2, 2018).

⁶ National Action Plan for Children 2013-2017, at <http://www.zsdzcg.me/images/Biblioteka/Nacionalni%20plan%20akcije%20za%20djecu.pdf> (last visited Apr. 2, 2018).

⁷ US Department of Labor, Bureau of International Labor Affairs, *2016 Findings on the Worst Forms of Child Labor – Montenegro*, at <https://www.dol.gov/sites/default/files/images/ilab/child-labor/Montenegro2016.pdf> (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).

⁸ Analysis of the National Action Plan for Children 2013-2017, Jan. 2018, at http://www.zsdzcg.me/images/dokumenta/Analiza%20Nacionalnog%20Plana%20akcija%202013-2017_MNE.pdf (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

⁹ Strategy for the Development of Social and Child Protection Systems 2018-2022, at <http://www.zsdzcg.me/images/Biblioteka/Strategija%20razvoja%20sistema%20socijalne%20za%20C5%A1tite%20starjih%20za%20period%202018.%20do%202022.%20godine.pdf> (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

¹⁰ Global Initiative to End All Corporal Punishment of Children, *Montenegro has prohibited all corporal punishment of children*, Sep. 2017, at <http://www.endcorporalpunishment.org/news/09/2017/montenegro-has-prohibited-all-corporal-punishment-of-children.html> (last visited Apr. 2, 2018).

¹¹ The Global Partnership to End Violence Against Children, *Become a Pathfinder Country*, at <http://www.end-violence.org/take-action/governments/pathfinders> (last visited Apr. 2, 2018).

¹² Global Initiative to End All Corporal Punishment of Children, *Corporal punishment of children in Montenegro*, Feb. 2018, at <http://www.endcorporalpunishment.org/assets/pdfs/states-reports/Montenegro.pdf> (last visited Apr. 2, 2018).

General Missing Child Issues

The Government Commissions on Missing Persons in Kosovo and Montenegro signed an agreement to exchange information to help find those who disappeared during the regional conflicts of the 1990s, though this agreement is not specific to children.¹³

Definition of “Missing Child”

“Missing child” is not specifically defined in Montenegrin legislation. The Law on Social and Child Protection of 2013 provides a definition of persons in need of protection¹⁴; however, the law does not specify the age of a “child.”

In achieving social and child protection objectives, the below persons shall be protected, in particular:¹⁵

- 1) A child:
 - without parental care;
 - whose parent is not able to take care of the child;
 - with disabilities;
 - with behavioural problems;
 - who uses alcohol, drugs or other illicit substances;
 - who is a victim of abuse, neglect, domestic violence or exploitation, or is at risk of becoming a victim;
 - who is a victim of trafficking in human beings;
 - whose parents do not agree on the manner of exercising the parental right;
 - who finds himself outside of the place of residence without the supervision of a parent, adoptive parent or guardian;
 - who is pregnant and without family support and adequate living conditions;
 - who is single parent with a child and without family support and adequate living conditions;
 - who needs an adequate form of social protection due to special circumstances and social risk.

Abandonment

The Criminal Code 2003 (amended in 2016) provides punishment for the mistreatment or gross negligence of a minor.¹⁶ The Law on Social and Child Protection outlines the need to determine jurisdiction over a child who has been abandoned by their parents.¹⁷ While the law does not provide a definition of abandonment, it ensures that protection is provided for abandoned children.

Article 87 of the Family Law of the Republic of Montenegro allows for the deprivation of parental rights in cases where a parent seriously neglects the performance of parental duties, including if the parent

¹³ Kosovo, Montenegro Sign Deal on Missing Persons, Oct. 22, 2015, BALKAN TRANSITIONAL JUSTICE, at <http://www.balkaninsight.com/en/article/kosovo-montenegro-reach-agreement-on-missing-person-s-10-22-2015> (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).

¹⁴ Law on Social and Child Protection 2013, amended 2017, *supra* note 4, at Article 4 (1) – Aims of Social and Child Protection.

¹⁵ Law on Social and Child Protection Law 2013, amended 2017, *supra* note 4.

¹⁶ Criminal Code 2003, Article 219 – Abduction and abuse of a minor (on file with the International Centre for Missing & Exploited Children).

¹⁷ Law on Social and Child Protection 2013, Article 74 (6) – Territorial jurisdiction (on file with the International Centre for Missing & Exploited Children).

subjects the child to physical, sexual, or emotional abuse, or abandons the child or does not provide for the child's basic living necessities.¹⁸

Kidnapping and Abduction

Article 164 the Criminal Code 2003 (amended in 2016) criminalizes the kidnapping or abduction of a minor by force, threat, deception, or for financial gain.¹⁹

The Criminal Code also punishes an individual who takes a child against the law or will of the parent/guardian or institution that has custody of the child with monetary fines or a prison sentence of up to two years, with additional time added if the health or education of the child is endangered.²⁰ According to Article 217(4), if the individual who takes the child voluntarily surrenders the child back to the person or institution with legal custody, the court may choose to free them from the sentence.²¹

Parental Abduction

Montenegro is a signatory to the Hague Convention on International Child Abduction.²²

In Montenegro, in order to obtain a passport for a child under age 18, the child and both parents or a legal guardian must be present at the time of application to the issuing agency.²³ If only one parent can be physically present, they must present documentation that they have been duly authorized by the other.²⁴

Article 26 of the Act on Travel Documents of 2008²⁵ states that for persons under age 18, the application for issuance of passports and travel documents must be submitted by a parent or legal guardian with the written consent of the other parent. In addition, a person under the age of 18 may travel to another country with the approval of one parent or legal guardian.²⁶ If one parent submits an application for travel documents to another country for a minor under age 18 and the other parent objects to the issuance of a travel document or travel to another country, the Ministry must act according to the parental rights regulations.²⁷

Reporting Mechanism

There is no in-country reporting mechanism for cases of missing children aside from calling the Montenegro Police general emergency line 122.

Since 2015, there has been a national SOS helpline for victims of domestic violence. The helpline – 080 111 111 – is toll-free, operates 24/7, and allows callers to remain anonymous.²⁸ It was launched

¹⁸ Family Law of the Republic of Montenegro 2007, Article 87 – Deprivation of the Parental Right, at <http://en.sudovi.me/podaci/en/vrhs/dokumenta/77.pdf> (last visited Mar. 27, 2018).

¹⁹ Criminal Code 2003, Article 164 – Abduction (on file with the International Centre for Missing & Exploited Children).

²⁰ Criminal Code of 2003, Article 217 – Abduction of Minor (on file with the International Centre for Missing & Exploited Children).

²¹ Criminal Code of 2003, Article 217 (4) – Taking the custody of underage children (on file with the International Centre for Missing & Exploited Children).

²² Hague Conference on Private International Law, Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, *Status of signatures, ratifications and accessions*, at <https://www.hcch.net/en/instruments/conventions/status-table/?cid=249> (last visited Mar. 27, 2018).

²³ Ministry of Foreign Affairs and European Integration, *Travel documents*, at <http://www.mvp.gov.me/rubrike/konzularni-poslovi/Konzularne-funkcije/Putne-isprave/> (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

²⁴ *Id.*

²⁵ Act on Travel Documents of 2008, Article 26 – How to Apply, at <http://www.sluzbenilist.me/LegalDocumentPrintPDFHandler.ashx?tag=%7bEC496679-ACDC-4C6E-A932-5A2BCF8A658D%7d> (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).

²⁶ Act on Travel Documents of 2008, Article 27 – Approval of a parent or legal representative (on file with the International Centre for Missing & Exploited Children).

²⁷ Act on Travel Documents of 2008, Article 28 – Approval of another parent.

²⁸ SOS Nikšić, at <http://sosnk.org/sos-linija/> (last visited Apr. 2, 2018).

by the Ministry of Labor and Social Welfare and the NGO SOS Nikšić, with the support of the United Nations Development Programme and the European Union.²⁹ The helpline works to raise awareness and provide support and assistance to women and children who are victims of domestic violence.³⁰

Investigation of Missing Child Cases

Research could not determine whether the Police Directorate under the Ministry of the Interior has any specific policies on how to investigate cases of missing children. National law enforcement does coordinate with INTERPOL to locate missing persons thought to be in Montenegro.³¹

The International Committee of the Red Cross (ICRC) manages Restoring Family Links, a movement dedicated to helping connect family members displaced by conflict.³² The Red Cross of Montenegro accepts requests for tracing services based on the ICRC strategy, as well as the Geneva Conventions, and other resolutions adopted by the ICRC. Through the Tracing Service, the Red Cross of Montenegro helps look for information on people missing as a result of the regional conflicts of the 1990s, as well as other armed conflicts, natural or man-made disasters, and migration.³³ In some cases, the organization tries to help reunite people living in Montenegro with family members living abroad.³⁴ In addition, within the Ministry of Labor and Social Welfare, the Commission for Missing Persons was established to address the issue of persons missing due to the regional conflicts.³⁵

National Database

The International Commission on Missing Persons (ICMP) manages a regional database of active missing and unidentified persons cases including children, but this database is focused specifically on the regional events of the 1990s.³⁶

Montenegro also has a national DNA database that contains information related to criminal investigations as well as missing persons cases.³⁷ The Law on National DNA Register of 2011 (amended in 2014) regulates the establishment of a national DNA database for the purpose of criminal procedure and identification of missing and deceased persons.³⁸

Case Management System

The method used by local law enforcement, social welfare organizations, and the Ministry of the Interior to record a reported missing child, as well as the investigative process, could not be determined.

²⁹ UNDP Montenegro, *Montenegro introduces national, toll-free, anonymous SOS helpline for victims of violence in family*, Sep. 9, 2015, at <http://www.me.undp.org/content/montenegro/en/home/presscenter/articles/2015/09/08/montenegro-introduces-national-toll-free-anonymous-sos-helpline-for-victims-of-violence-of-family.html> (last visited Apr. 2, 2018)

³⁰ *Id.*

³¹ INTERPOL, *Montenegro – INTERPOL Podgorica*, at <https://www.interpol.int/Member-countries/Europe/Montenegro> (last visited Mar. 27, 2018).

³² International Committee of the Red Cross, *Restoring Family Links*, at www.familylinks.icrc.org/en/Pages/home.aspx (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).

³³ *Id.*

³⁴ *Id.*

³⁵ Ministry of Labor and Social Welfare, *Commission for Missing Persons*, at <http://www.minradiss.gov.me/informacije/komisija/> (last visited Apr. 2, 2018).

³⁶ International Commission on Missing Persons (ICMP), *Western Balkans Regional Meeting Launches Database of Active Missing Persons Cases from the Armed Conflicts in the Former Yugoslavia*, at <https://www.icmp.int/flash-news/western-balkans-regional-meeting-launches-database-of-active-missing-persons-cases-from-the-armed-conflicts-in-the-former-yugoslavia/> (last visited Mar. 27, 2018).

³⁷ *DNA register: 885 DNA profiles entered – these are the profiles that can be entered*, ANALITIKA, Jul. 31, 2017, at <http://portalanalitika.me/clanak/276429/dnk-registar-unijeto-885-dnk-profila-evo-kakvi-profilu-se-smiju-unositi> (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

³⁸ Law on National DNA Register, at <http://www.paragraf.me/propisi-crnegore/zakon-o-dnk-registru.html> (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

Alert Mechanism

There is no emergency child alert system currently in place to notify the public about cases of missing children.

Awareness-Raising Initiatives

While a variety of awareness-raising efforts are underway in Montenegro with a focus on human trafficking, children's rights, and children's health, our research found no such initiatives specifically regarding missing children.

Annual events are held in commemoration of the International Day of the Disappeared (August 30) as a reminder of those who went missing during the regional conflict of the 1990s. Through these events, organizations like the Association of Families of Missing, Kidnapped and Murdered Persons (Crveni Božur) and the Centre for Civic Education (CCE) urge the government to continue to provide support for those who suffered the loss of a family member(s) and to inform the public of actions taken to investigate and solve the cases of those who disappeared.³⁹

Trafficking

In Montenegro, victims of sex trafficking are primarily women and girls from Montenegro and neighboring Balkan countries exploited in hospitality facilities, bars, restaurants, nightclubs, and cafés.⁴⁰ Children, particularly Roma, are subjected to forced begging.⁴¹ Romani girls, in particular, have been sold into marriages in Romani communities in Montenegro and Kosovo and are often forced into domestic servitude.⁴² International organized crime groups are also reportedly active in Montenegro, subjecting women and girls to sex trafficking domestically and in other Balkan countries.⁴³

Article 444 of the Criminal Code 2003 (amended in 2016) prohibits sex and labor trafficking and prescribes penalties up to 12 years of imprisonment with longer sentences for cases involving minors.⁴⁴ Article 446 criminalizes establishing a relationship of slavery and transporting persons who are in a relationship of slavery.⁴⁵ In addition, the Foreigners Law requires law enforcement to work with NGOs and social workers to determine if a foreign national minor may be a trafficking victim and eligible to receive healthcare, education, and social services.⁴⁶

In addition to legislative efforts, the government created The Office for the Fight against Trafficking in Human Beings and the position of the National Coordinator for Combating Trafficking in Human Beings in 2001.⁴⁷ The office is the umbrella institution for anti-human trafficking activities in Montenegro. The National Coordinator is responsible for overseeing the work of the office and for monitoring

³⁹ Svetlana Pešić, *International Day of the Disappeared Commemorated*, Centre for Civic Education, Aug. 29, 2016, at <http://cgo-cce.org/en/2016/08/29/obiljezen-medunarodni-dan-nestalih/#.WsvEmYjwZaQ> (last visited Apr. 9, 2018) (on file with the International Centre for Missing & Exploited Children).

⁴⁰ US Department of State, *2017 Trafficking in Persons Report – Montenegro* 287-289, at <https://www.state.gov/documents/organization/271339.pdf> (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Criminal Code of Montenegro of 2003, Article 444 – Trafficking in Human Beings (on file with the International Centre for Missing & Exploited Children).

⁴⁵ Criminal Code of Montenegro of 2003, Article 446 – Submission to slavery and transportation of enslaved persons (on file with the International Centre for Missing & Exploited Children).

⁴⁶ US Department of State, *supra* note 40. See, Foreigners Law of 2008 (amended 2014), Article 52 – Reflection Period, at [http://www.mipa.co.me/files/documents/1470739888-FOREIGNERS%20LAW%20-%20Zakon%20o%20strancima%20-%20ENG.%20\(3\).rtf](http://www.mipa.co.me/files/documents/1470739888-FOREIGNERS%20LAW%20-%20Zakon%20o%20strancima%20-%20ENG.%20(3).rtf) (last visited Apr. 5, 2018) (on file with the International Centre for Missing & Exploited Children).

⁴⁷ Office for Combating Trafficking, *Organizational Structure*, at <http://www.antitrafficking.gov.me/rubrike/organizaciona-struktura-/89639/7410.html> (last visited Apr. 2, 2018).

implementation of the country's national strategy and individual action plans related to trafficking. The Office also funds the SOS hotline for trafficking victims to report trafficking and seek information and advice.⁴⁸

In September 2012, the government adopted a new strategy to combat human trafficking for the period of 2012-2018.⁴⁹ The strategy focuses on six main areas: prevention and education; victim identification; assistance, protection, and reintegration; efficient criminal prosecution; international cooperation; and coordination and partnership.⁵⁰ The government further adopted a 2016 Action Plan for the implementation of its 2012-2018 anti-trafficking legislation and strategy that includes specific activities, deadlines, indicators of success, funding sources, and partner information.⁵¹

In partnership with the Organization for Security and Co-operation in Europe, Montenegro has held workshops to help establish an Advance Passenger Information⁵² system to help curb trafficking across borders.⁵³

Montenegro signed a trilateral agreement with Albania and Kosovo in 2016 that unified standard operating procedures on identifying trafficking victims and providing support services.⁵⁴ These countries declared the commitment of their governments to ensure use of standard operating procedures for identification, assisted voluntary return, and protection of victims with a special focus on the protection of trafficked children.⁵⁵

⁴⁸ *Id.*

⁴⁹ Government of Montenegro, Ministry of Interior, Office for the Fight against Trafficking in Human Beings, *Strategy for Combating Trafficking in Human Beings 2012-2018*, 2012, at <http://www.antitrafficking.gov.me/en/sections/national-strategy/119715/Government-of-Montenegro-adopted-the-new-Strategy-for-fight-against-trafficking-in-human-beings-2012-2018.html> (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

⁵⁰ Government of Montenegro General Secretariat Office for Fight Against Trafficking in Human Beings, *Action Plan for Implementation of the Strategy for the Fight against Human Trafficking in 2016*, at <http://www.antitrafficking.gov.me/en/sections/action-plan/161226/Government-adopted-Action-Plan-For-The-Implementation-Of-The-Strategy-For-Fight-Against-Trafficking-In-Human-Beings-for-2016.html> (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

⁵¹ *Id.*

⁵² "API systems are electronic communications systems that allow for the collection of biographical data from a passenger's travel document before a flight's departure or arrival at the airport of destination. When checked against law enforcement watch lists, such as those of INTERPOL, API data can be an effective tool for enhancing border management and aviation security." See, OSCE, *OSCE workshop explores how to establish an Advance Passenger Information system in Montenegro*, Jun. 1, 2017, at <https://www.osce.org/secretariat/320841> (last visited Apr. 3, 2018) (on file with the International Centre for Missing & Exploited Children).

⁵³ *Id.*

⁵⁴ US Department of State, *supra* note 40.

⁵⁵ Save the Children – Albania, *Joint Declaration of Albania, Montenegro and Kosovo Focusing Child Trafficking*, at <https://albania.savethechildren.net/news/joint-declaration-albania-montenegro-and-kosovo-focusing-child-trafficking> (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).