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SLOVENIAN RESEARCH AGENCY

LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PREVENTION OF ORGANIZED CRIME IN MONTENEGRO

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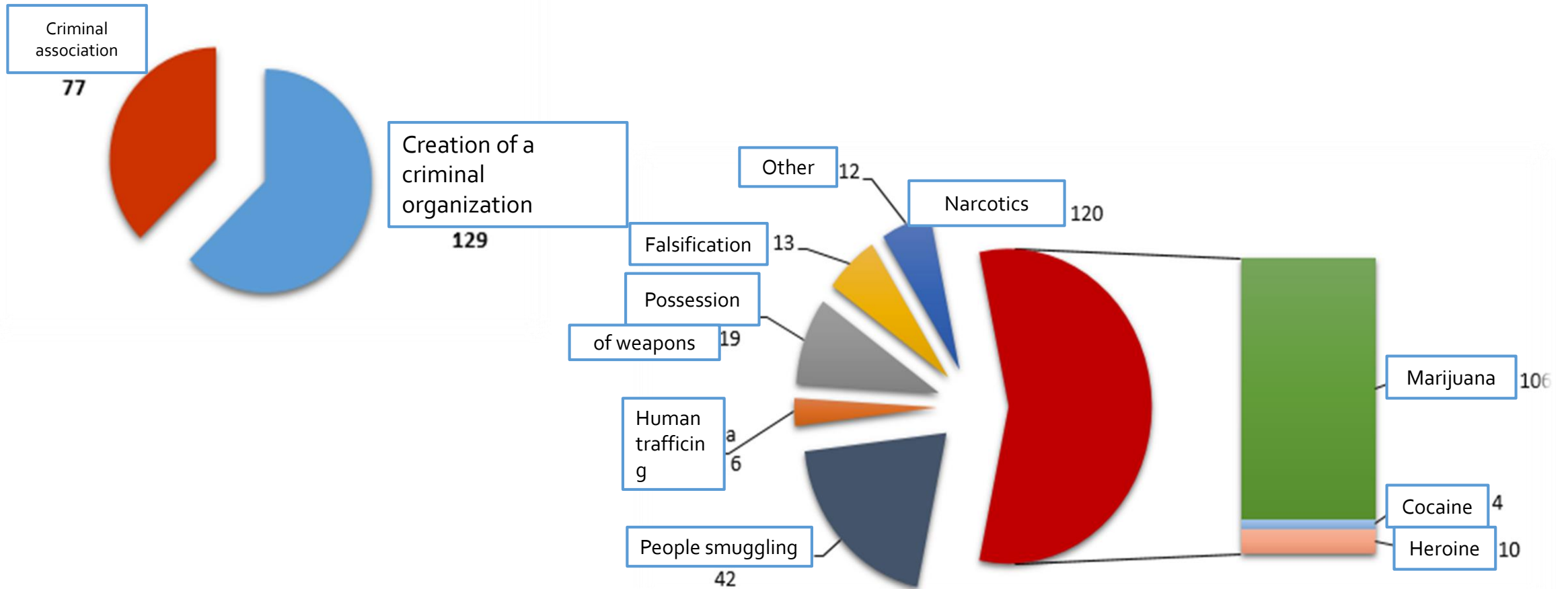
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ORGANIZED CRIME

- The term "organized crime" refers to a gathering of global, national, or local organizations that are highly centralized and are controlled by criminals in order to participate in illicit behavior, most often for financial gain. Although organized crime is typically considered of as a type of unlawful trade, some criminal organizations, such terrorist organizations, rebel armies, and separatists, are driven by political ideologies.



- *What do the statistics say ?*



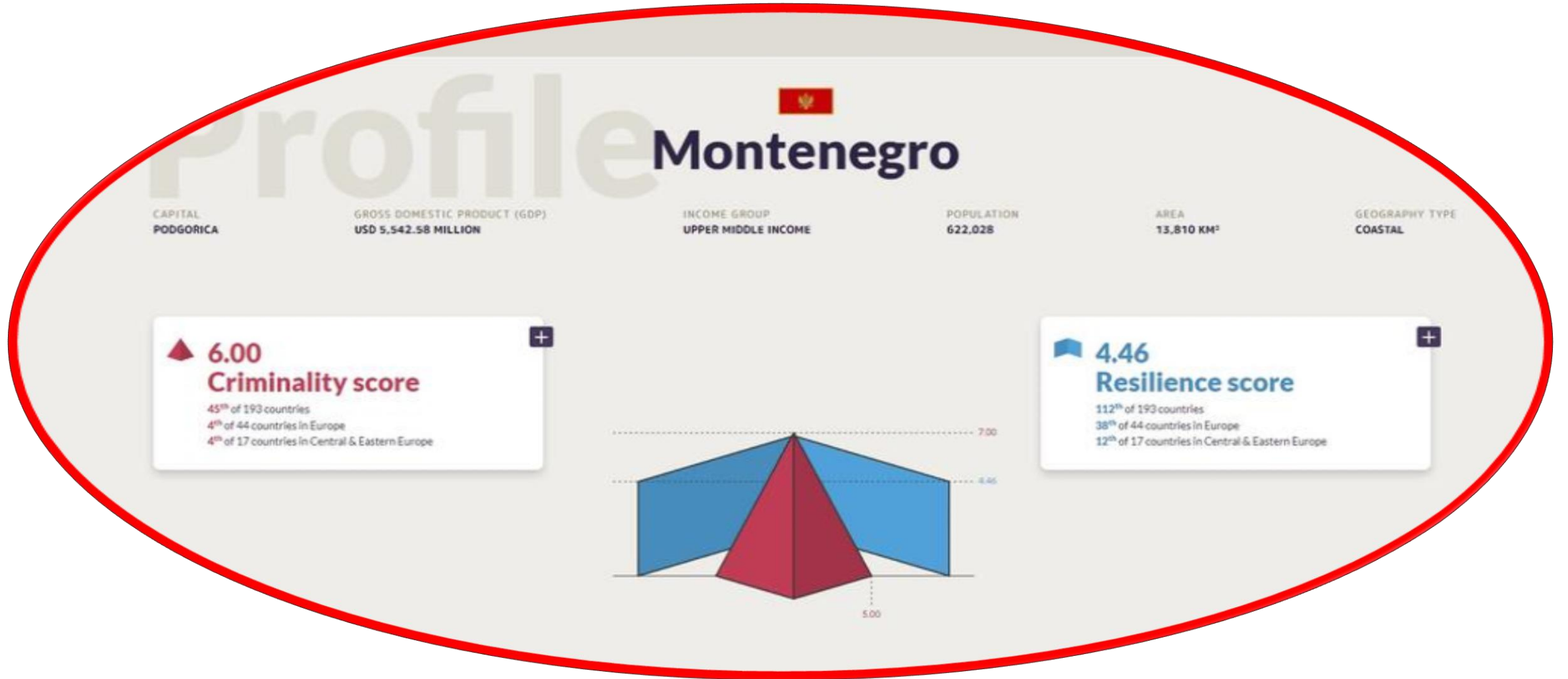


The Montenegrin mafia

- The term "Montenegrin mafia" (Crnogorska mafija) describes a variety of criminal groups with headquarters in Montenegro or made up primarily of Montenegrin citizens. Outside of their own nation, Montenegrin gangs operate all over Europe, particularly in Serbia. The gangs frequently specialize in the trafficking of weaponry, tobacco, and illegal drugs.
- The Kavač and Škaljari clans are by far the most well-known and play a crucial part in the so-called Balkan cartel, according to the 2021 Serious and Organized Crime Threat Assessment of Montenegro (SOCTA), which names 10 high-risk organized crime groups in Montenegro. One of the two Kotor clans described above controls or is affiliated with the majority of Montenegro's other high-risk organized criminal groups. Despite the fact that very lucrative cigarette smuggling is a priority of various criminal organizations, Montenegro's major crime groups specialize in the smuggling of drugs.



- According to the data of the Global Index of Organized Crime, Montenegro is positioned in 45th place with 6 index points, and among 44 European countries it is fourth on the list.



THE FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME PROGRAM

The FIGHT AGAINST CORRUPTION AND ORGANIZED CRIME PROGRAM was developed by the government of Montenegro in collaboration with the NGO sector as a part of its program operations. The program's objective is to establish a generally accepted system of actions and procedures to combat organized crime and corruption, two enormously detrimental social issues.



For the fight against corruption, the size of the illegal redistribution of resources to the detriment of ordinary citizens is of primary importance, but also the fact that the pressure of corruption is a serious risk factor that limits foreign investments and support for the transition, which affects the demoralization of the national potential for implementing reforms.

- The long-term goal of this program is to limit, as much as possible, corruption and organized crime and its consequences that are generally destructive to society. Cooperation between international organizations, foreign governments, and international experts is of particular importance when defining the parameters of the anti-corruption initiative and its integration into multilateral efforts, with the aim of suppressing corruption in countries in our region.





- The fight against all forms of organized crime is very complex security challenge, which requires multidisciplinary, integrated and comprehensive access and additional effort and engagement of all factors, including safety sector, as well as prosecutorial holders and judicial functions, but also other authorities, which act at the state level and local level, whose competence they imply taking measures and actions in all areas of activity organized criminal groups, especially in the related part on financial flows and management legal business structures which are owned by members organized criminal groups.



- Guided by the recommendations from previous Hazard Assessments of serious and organized crime- SOCTA MNE 2017, Council for national security has determined list of national priorities which includes areas of smuggling and distribution of narcotics, heavy crimes against life and limb, firearms smuggling, illegal migration and trade people, smuggling of excise goods- tobacco and tobacco products, money laundering, terrorism and religious extremism, cybercrime.



- The years 2017 through 2021 are covered by the data that were utilized to develop the risk assessment. Specific recommendations, operational plans, and strategic plans will be handled by the National Interdepartmental Working Team for the Combat Against Serious and Organized Crime.
- Despite this, Montenegrin organized crime groups continue to be a major factor in transnational drug trafficking and supply to the European market. All forms of drug smuggling continue to use Montenegro as a transit country



Smuggling and distribution of narcotics

The situation on the criminal market is further characterized by the trend of smuggling narcotics as a key criminal activity carried out by organized criminal groups from Montenegro. Increasing participation is evident in criminal structures from Montenegro in transcontinental activities and a high degree of adaptability to market needs through use of new methods and adaptation to changes in legislation and technical-technological achievements.

STATISTICAL DATA ON THE QUANTITY OF DRUGS SEIZURED IN MONTENEGRO

2017	2018	2019	2020	2021
3.374.282,12	3.248.498,96	2.408.933,81	3.121.312,47	4.714.606,14

•Total quantity expressed in gram

Year	Cocaine	Heroin	Marijuana	Synthetic drugs
2017	1.634,34	17.926,58	3.336.411,52	54,6 i 420 komada tableta
2018	34.897,92	1.782,42	3.203.420,06	236,6 i 1770 komada tableta
2019	93.242	23.319,66	2.290.600,9	271,4 i 6832 komada tableta
2020	1.082,59	13.157,07	3.103.998,31	378
2021	1.244.180,61	2.059,05	3.465.094,03	3.059,45

•Total quantity expressed in grams



Heroin is supplied to the market of the Western Balkans from Turkey and Bulgaria, and cases of smuggling from Greece were also registered. The price of a kilogram of heroin in Turkey ranges from 10,000 to 13,000 euros, and the main entry point in the Western Balkans is the area around Delčevo in North Macedonia, from where distributes to the interior of the country and further to the countries of the region. The price Kilograms of heroin in Macedonia, in the areas known as smuggling bases, range from 12,000 to 15,000 euros. Through the territory of Kosovo, heroin is further smuggled from the direction of Ferizaj towards Pristina and Novi Pazar and further towards Belgrade. The second route goes from the direction of Peć towards Montenegro - Rozaje

HEROIN SMUGGLING ROUTES THROUGH THE WESTERN BALKANS



Smuggling of excise goods

- Tobacco and tobacco products In Montenegro, as in the European Union and in the countries of the region, the problem of smuggling and illegal trade in excise goods, primarily cigarettes, is increasingly pronounced, and it is estimated that our country loses between 15-20 million every year euros due to the gray market of cigarettes, which is 30% of the value of the total legal market of tobacco products

STATISTICAL DATA ON THE QUANTITY AND VALUE OF SEIZURED CIGARETTES

Year	Quantity (in packages)
2017	3876
2018	36993
2019	3514 ¹
2020	1243
2021	50 921
Total:	96 547

PREVENTION OF CORRUPTION

- Montenegro has already passed numerous laws aimed at combating corruption and organized crime. However, when adopting new or changing existing legislation, the need to provide mechanisms to combat corruption should be taken into account, especially in those areas where there is a high risk of its occurrence.
- In this regard, the solutions that regulate issues of conflict of interest in the current Law should be improved with the aim of better harmonization with European standards. Activities on the drafting of the new law are ongoing.
- Changes in the political system must reduce areas where private or group interest threaten the common interest, while changes in the economic system must encourage the privatization of state ownership.
- It is necessary to strengthen specialized control over money laundering, including cooperation with the European Union and its members.
- In the future, consider the possibility of giving the existing institutional forms (police, prosecutor's office and other authorities) greater powers in the fight against corruption, which is also the practice in other countries.

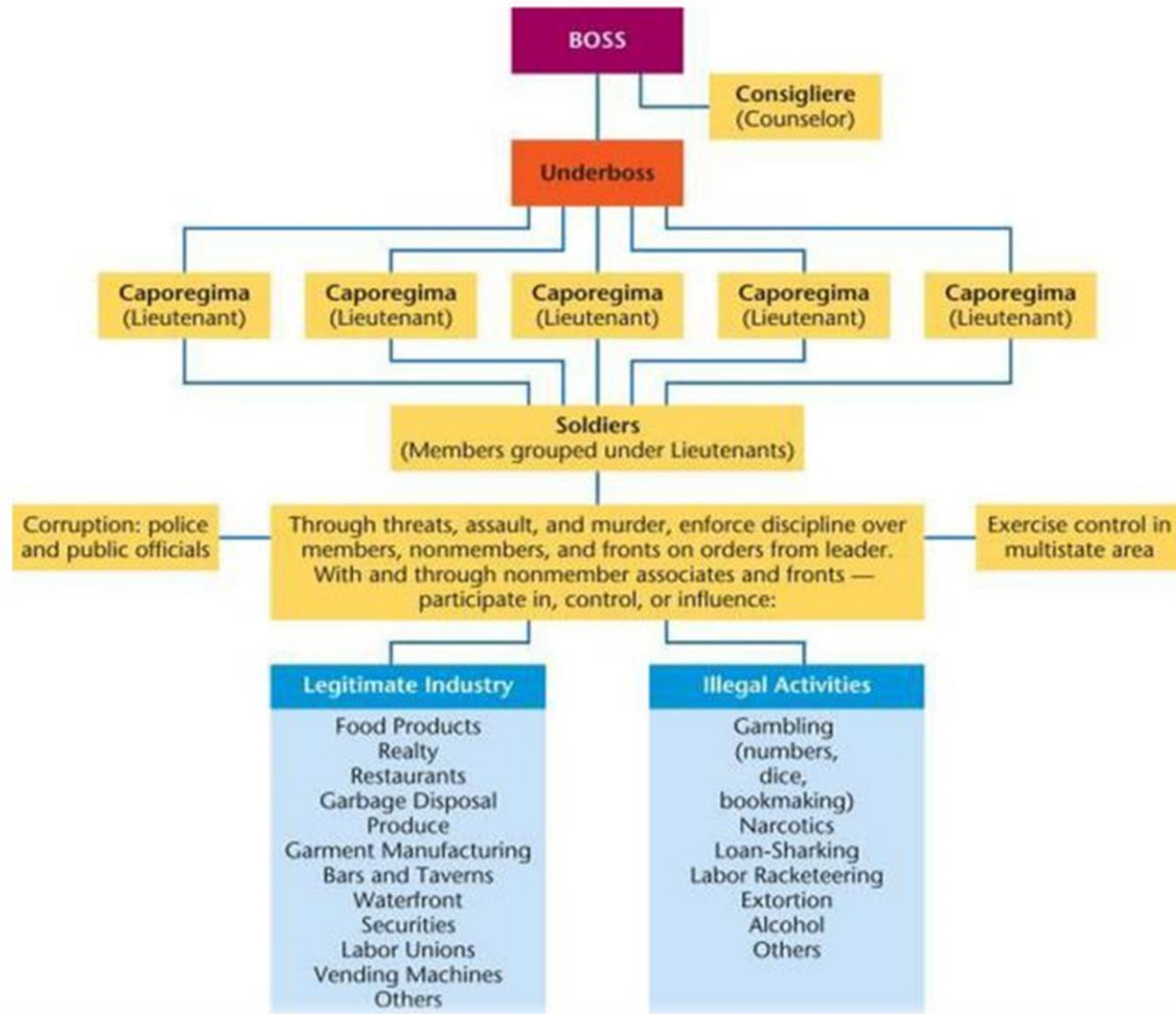
A person in a dark suit is holding a brown envelope over a wooden table. The background is blurred, showing a white shirt and a dark tie. The scene is lit with soft, natural light.

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Improving the methods, way of functioning and behaviour of the public administration for better provision of administrative services to the public is also a priority task, which can be achieved in the following way :

- By training public officials at all levels and formulating clear guidelines and codes of conduct
- Determining the obligation for public officials and civil servants to submit a report of their income and property status, including their family members. The Ministry of Internal Affairs, the Financial Police, The Directorate for Anti-Corruption Initiative are authorized to request and verify such information
- Monitoring the giving and receiving of gifts to officials and employees through strengthening the internal control system
- Respect for human rights, especially the right to information, privacy and freedom of expression, is essential for preventing corruption.
- Increasing the effectiveness of the judicial system is a prerequisite for the protection of human and other rights and a prerequisite for the suppression of corruption. That is why it is necessary to pass the Law on Protection of Personal Data and the Law on Free Access to Information as soon as possible !

A Typical Organized Crime Family



**Legal and institutional
framework for the fight
against organized crime**



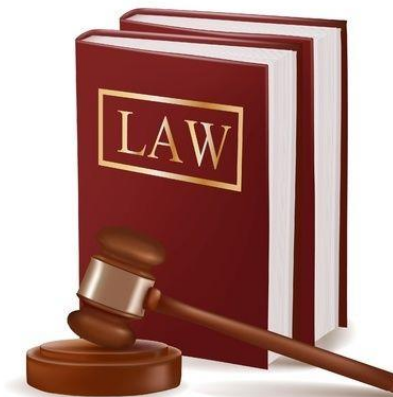
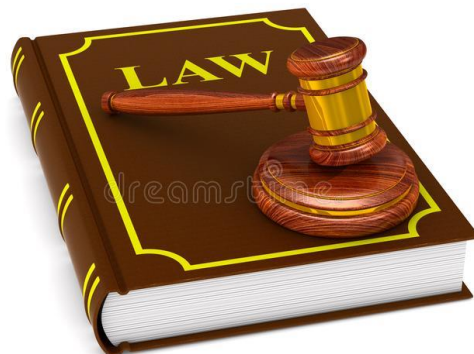
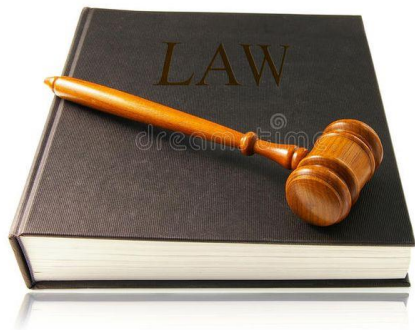
Legal framework for the fight against organized crime

- **The Constitution of Montenegro**, which regulates the principles for regulating the most important relations in the state, state organization, protection of fundamental rights and powers of the Parliament of Montenegro in the exercise of political supervision and control of the executive power.
- **Resolution on the fight against corruption and organized crime** ("Official Gazette of Montenegro", number 2/08) by which the Parliament of Montenegro expresses its readiness to engage with all its capacities in the construction of national anti-corruption legislation and in the establishment of the closest possible international and regional cooperation in the field of combating corruption and organized crime.
- **The Criminal Code** ("Official Gazette of the Republic of Montenegro", No. 70/03 and 47/06 and "Official Gazette of Montenegro", No. 40/08) defines the criminal offense of criminal association (Article 401), which criminalizes the creation of criminal organizations or groups, i.e. organizers of the association or members of the association. Criminal acts that can be committed in an organized manner have also been established, so a more severe punishment is provided for the qualified form of that criminal act.
- **The Law on Amendments to the Criminal Code** ("Official Gazette of Montenegro", number 25/10) is fully in line with international conventions and standards.
- **The Criminal Procedure Code** ("Official Gazette of the Republic of Montenegro", no. 71/03, 7/04 and 47/06), in Chapter XXX, contains special provisions on the procedure for criminal offenses committed in an organized manner, which are applied if there are grounds for suspicion that the committed criminal offense is the result of the actions of more than two persons whose goal is to commit serious criminal offenses.



- **The Code of Criminal Procedure** ("Official Gazette of Montenegro", No. 57/09) provides new legal assumptions and instruments for a more effective fight against corruption and organized crime, the most important of which are:
 - **The function of gathering data for the accusation** - which is carried out by the state prosecutor - was separated from the decision-making process - which is the right and duty of the judge, and the institute of the investigating judge was introduced.
 - **Secret surveillance measures** (special investigative tools) can be applied in the preparation phase of a criminal offense and in relation to a larger number of criminal offenses than before.
 - **Confiscation of property** whose legal origin has not been proven (extended confiscation) and related «reverse burden of proof» are completely new institutions of criminal law.
- **The Law on Witness Protection** ("Official Gazette of the Republic of Montenegro", No. 65/04) regulates the extrajudicial protection of witnesses who testify about the commission of a criminal offense against the constitutional order and security of Montenegro, against humanity and other goods protected by international law, criminal offenses of organized crime and criminal offenses for which a prison sentence of 10 years or a heavier penalty can be imposed by law, which includes serious corrupt criminal offenses for which a prison sentence of 10 years or a heavier penalty can be imposed.
- **The Law on State Prosecution** ("Official Gazette of the Republic of Montenegro", No. 69/03 and "Official Gazette of Montenegro", No. 40/08) established the Department for Suppression of Organized Crime at the Supreme State Prosecutor's Office, which is managed by the Special Prosecutor.
- **The Law on Courts** ("Official Gazette of the Republic of Montenegro", no. 5/02 and 49/04 and "Official Gazette of the Republic of Montenegro", no. 22/08) regulates, among other things, the following issues: establishment, organization and jurisdiction of courts, conditions for the selection of judges and organization of court work.
- **The Law on the Judicial Council** ("Official Gazette of Montenegro", number 13/08) in accordance with the Constitution of Montenegro established the Judicial Council as an independent and independent body.
- Also, **the Law on Police** and **the Law on Border Control** are significant, while the Law on the National Security Agency ("Official Gazette of the Republic of Montenegro", number 28/05) establishes the authority of the National Security Agency to collect data on the activities of organizations, groups and individuals aimed at committing domestic and international terrorism, organized crime and the most serious forms of crimes against humanity and international law.

- **The Law on Prevention of Conflict of Interest** ("Official Gazette of Montenegro", No. 1/09) establishes restrictions on the performance of public functions, submission of reports on income and assets, and other measures to prevent conflicts of public and private interest.
- **The Law on Liability of Legal Entities for Criminal Offenses** is also significant.
- **The Law on Prevention of Money Laundering and Financing of Terrorism** ("Official Gazette of Montenegro", no. 14/07 and 4/08) regulates the measures and actions taken to detect and prevent money laundering and financing of terrorism.
- Also worth mentioning: **Law on International Legal Assistance in Criminal Matters, Law on Protection of Personal Data, Law on Tax Administration, Customs Law.**
- **The Law on Civil Servants and State Employees** ("Official Gazette of Montenegro", No. 50/08) provides for the protection of civil servants and state employees from unjustified termination of employment, when they have reported corruption or a criminal offense characterized by corruption to the head of a state body or an authorized official.
- **The budget law**, together with the annual budget law, represents the legal basis for public finances in Montenegro ("Official Gazette of Montenegro", number 53/09).
- **The Law on the System of Internal Financial Controls in the Public Sector** ("Official Gazette of Montenegro" No. 73/08) regulates the system of internal financial controls in the public sector of Montenegro, which includes financial management and control and internal audit.



Institutional framework for the fight organized crime



- According to the Constitution, **the Parliament of Montenegro**, among other things, passes laws and other general acts; adopts a national security strategy and a defense strategy; supervises the security services; elects and dismisses the President of the Supreme Court; appoints and dismisses: the supreme state prosecutor and state prosecutors; grants amnesty; ratifies international agreements.
- **The State Prosecutor's Office** is a unique and independent state body that prosecutes perpetrators of criminal offenses and other punishable offenses that are prosecuted ex officio.
- Judicial power is exercised by courts, which judge independently. **The High Court** is now competent to try cases of criminal acts of corruption and organized crime.
- **The State Audit Institution** audits the legality and effectiveness of the management of state assets, liabilities and budgets.
- **The Government of Montenegro**, among other things, leads the internal and foreign policy of Montenegro; executes laws and other regulations; concludes international agreements; proposes a national security strategy and a defense strategy.
- **The National Security Agency**, within its competences, also performs tasks related to the fight against international organized crime

- **The Customs Administration**, among other things, performs administration tasks related to: customs supervision; customs clearance of goods; control of goods whose import or export is specially regulated
- **The Directorate for Anti-Corruption Initiative** is responsible for raising the level of public awareness of the problem.
- It is necessary to classify here **the Directorate for the Protection of Secret Data as well as the Directorate for Public Procurement.**
- **The Protector of Property and Legal Interests of Montenegro** performs tasks related to the representation of Montenegro, its organs and public services founded by the state, which do not have the status of a legal entity, before the courts and other state bodies.
- The following institutions also play a significant role in the fight against corruption and organized crime:
 - **Securities Commission**
 - **Central Depository Agency**
 - **Commission for the control of the public procurement procedure**
 - **State Election Commission**
 - **Commission for the prevention of conflicts of interest**



Sources :

1. GLOBAL ORGANIZED CRIME INDEX (2021.)
<https://ocindex.net/country/montenegro>
2. Government of Montenegro,(2022). "SOCTA 2022, Assessment of the danger from serious and organized crime in Montenegro" Podgorica.
3. Government of Montenegro,(2005). "Program fighting against corruption and organized crime", Podgorica.
4. Rakočević V. (2007). Criminology, Podgorica, p.67-70.



Thanks for your attention!