



Government of Montenegro
Ministry of Justice



ATTENDANCE ORDER IMPLEMENTATION RULES

Pursuant to Article 80(e) of the Criminal Code («Official Gazette of the Republic of Montenegro», Nos. 70/03 and 47/06) the Ministry of Justice adopts the

ATTENDANCE ORDER IMPLEMENTATION RULES

I GENERAL PROVISIONS

Article 1

These Rules shall govern the implementation of attendance orders issued to a juvenile offender and other issues relevant for the purpose of attendance orders.

Article 2

Attendance orders shall be implemented taking into account the best interests of the juvenile and the circumstances relating to his dignity, personality, maturity, development, social environment while also ensuring that their implementation does not disrupt the juvenile's education or employment.

Article 3

The competent childcare authority shall oversee the implementation of attendance orders and regularly report to the court.

The attendance orders shall be implemented taking into account the opinion of the juvenile.

The implementation of attendance orders shall involve the juvenile's parents, adoptive parent or guardian (hereinafter referred to as «Legal Representative»).

II ATTENDANCE ORDER IMPLEMENTATION

1. Settlement with the victim so as to remove, entirely or partially, harmful consequences of the delinquent act by means of restitution, apology, work or in some other way

Article 4

Having found that all the requirements are in place to implement the attendance order of settlement with the victim so as to remove, entirely or partially, harmful consequences of the delinquent act by means of restitution, apology, work or in some other way, the court shall inform the victim, the juvenile and his legal representative about the advantages of settlement and its legal and procedural consequences. If they reach agreement, the settlement agreement between the juvenile and the victim may immediately be concluded before the court.

Article 5

Where the settlement agreement is not concluded immediately before the court, the court shall entrust the future settlement procedure to a specially trained person, i.e. the mediator (hereinafter referred to as «Mediator») subject to the consent of the juvenile and the victim.

The juvenile and the victim shall jointly appoint one or more mediators. Where the agreement cannot be reached, the mediator shall be appointed by the court.

Article 6

The mediator shall be selected from the list of mediators kept by the Ministry of Justice.

The mediator must have expertise in the area of children's rights and juvenile delinquency having undergone special training in mediation under the training programme attached hereto and making an integral part of the Rules.

Article 7

The settlement procedure must start within eight days of the date of decision to refer the case to settlement with the victim and may last for maximum three months.

Settlement may be stopped only on request of the juvenile or the victim.

Article 8

Settlement is finalized when agreement is reached and the formal agreement between the juvenile and the victim concluded, the record of which is taken by the judge.

The agreement referred to in Para.1 of this article shall consist of the subject of settlement, deadline for the fulfillment of obligations the juvenile has accepted or the statement that the juvenile's obligation has already been fulfilled, which is also certified by the legal representative.

Article 9

The mediator shall from time to time with the assistance of the legal representative and, when necessary, with the assistance of the childcare authority monitor the juvenile's progress in fulfilling the obligations as per the agreement and shall report in writing to the court and the public prosecutor.

Article 10

Data obtained during the settlement procedure shall be treated as confidential and shall not be used in any court procedures against the juvenile.

Article 11

The Ministry of Justice, based on its register of mediators kept under the Mediation Law («Official Gazette of the Republic of Montenegro», No. 30/05), shall deliver to public prosecutors and courts the list of mediators, which includes the following: name, profession, address and telephone number of mediators who have been trained under the programme referred to in Art. 6 of these Rules.

Article 12

All issues not regulated by these Rules concerning the implementation

of attendance order of settlement with the victim shall be subject to the mediation regulations.

2. Regular attendance of school or commitment to employment

Article 13

The decision on the implementation of the order to regularly attend school or go to work shall be delivered by the court to the school or the employer implementing the attendance order and the competent childcare authority.

Article 14

When implementing the attendance order referred to in Article 13 of these Rules, the school or the employer shall appoint an authorized person to inform the juvenile about his rights and obligations also taking into account the juvenile's opinion.

The authorized person shall take necessary measures to organize the juvenile's education or work in accordance with his capacity and interests so as to further his development and promote a sense of responsibility.

The attendance order shall be implemented with an effort to avoid mental and physical discomfort that may be insulting for the juvenile's personality and dignity.

Article 15

The legal representative shall contact the authorized person referred to in Art. 14 of these Rules at least once in ten days to receive information on the activities taken in the implementation of the order to regularly attend school or go to work.

At the request of the legal representative and with a view to effective implementation of the order to regularly attend school or go to work, the childcare authority shall contact the authorized person referred to in Art. 14 of these Rules.

Article 16

School, or the employer, shall report on a monthly basis to the competent childcare authority on the implementation of the attendance order. The competent childcare authority shall submit the final report to the court upon expiry of the order to regularly attend school or go to work.

3. Work without remuneration for humanitarian organizations or social, local community or environment protection work

Article 17

The Ministry of Labour and Social Care in cooperation with the competent childcare authority, the Employment Agency of Montenegro and humanitarian organizations shall select and produce a list of suitable agencies, institutions, organizations or companies (hereinafter referred to as the «Legal Entity») where the attendance order to work without remuneration for humanitarian organizations or do social, local community or environment protection work.

The compilation of the list referred to in Para. 1 of this article shall be subject to the consent of the legal entities.

The competent childcare authority shall deliver to the court the list referred to in Para. 1 of this article including a short description of work that may be done by juveniles as part of implementation of the attendance order at the said legal entities.

Article 18

The decision on the implementation of the attendance order referred to in Art. 17 of these Rules shall be delivered by the court to the competent childcare authority, which shall then conclude a special agreement with the legal entity the juvenile is referred to for the implementation of the attendance order.

The agreement signed by the representative of the childcare authority and of the legal entity shall regulate, subject to the juvenile's consent, the

method of implementation of the attendance order as well as the rights and obligations arising from the agreement.

Article 19

During the implementation of the attendance order referred to in Art. 17 of these Rules, the juvenile may not receive remuneration for his work. His work shall not last longer than 20 hours in order to avoid disrupting his education or employment.

The purpose of the work done by the juvenile shall be closely related to developing his sense of responsibility.

Article 20

The competent childcare authority shall appoint a person, a representative of the childcare authority, or another person having the required knowledge in the area of children's rights and juvenile delinquency, to oversee the juvenile's work during the attendance order and report at least once a month to the childcare authority.

The attendance order referred to in Para. 1 of this article shall be implemented taking into account the mental and physical capacity of the juvenile as well as his respectability and dignity.

Upon implementation of the attendance order referred to in Art. 17 of these Rules, the childcare authority shall submit the final report to this court on the bases of the report referred to in Para. 1 of this article.

4. Submission to examination and alcohol and substance abuse treatment

Article 21

The decision on the implementation of the attendance order of submission to examination and alcohol and substance abuse treatment shall be delivered by the court to the institution or organization dealing with such treatment of addiction (hereinafter referred to as the «Institution») where this order shall be implemented.

The institution shall appoint a doctor to monitor the implementation of the attendance order referred to in Para. 1 of this article and include when necessary the legal representative and the competent childcare authority.

Article 22

The implementation of the attendance order referred to in Art. 21 of these Rules must be based on an individualized plan drafted by the doctor with the assistance of the legal representative and the childcare authority. The juvenile shall be familiar with the plan and give his consent to it in writing.

The drafting of the individualized plan referred to in Para. 1 of this article shall take into account the juvenile's home environment, personality, capacity, intelligence and circumstances leading to the commission of the crime also making an effort to implement the least restricting methods.

Article 23

The individualized plan shall appoint an authorized person from the institution to monitor the implementation order referred to in Art. 21 of these Rules.

In the implementation of the education order referred to in Art. 21 of these Rules, the authorized person referred to in Para. 1 of this article shall cooperate with the legal representative who shall contact the authorized person at least once in fifteen days.

Article 24

The attendance order referred to in Art. 21 of these Rules shall be implemented taking into account the need to protect the juvenile's dignity and privacy in order to protect and strengthen his integrity, development and responsibility.

Article 25

The juvenile may withdraw his consent to the implementation of the attendance order for his submission to examination and alcohol and substance abuse treatment by a written notification at any time.

The authorized person and the childcare authority shall warn the juvenile about the effects the cessation of attendance order may have.

Article 26

The authorized person shall submit to the competent childcare authority the report on the implementation of the attendance order at least once a month as well as the final report upon the completion of implementation. Upon the expiry of the attendance order, the childcare authority shall submit to the court the final report on the basis of the report prepared by the authorized person.

5. Individual or group treatment in a health-care institution or a counsel centre

Article 27

The decision on the implementation of the attendance order of individual or group treatment in a health-care institution or a counsel centre shall be delivered by the court to the health care institution or the counsel centre where this order shall be implemented as well as to the competent childcare authority.

Article 28

The health-care institution or the counsel centre shall appoint an authorized person to monitor the implementation of the attendance order referred to in Art. 27 of these Rules. In determining the kind of treatment and during the implementation of this attendance order, the authorized person shall cooperate with the legal representative and the childcare authority.

Article 29

When determining the individual or group treatment for the juvenile, the authorized person shall take into account the juvenile's opinion as well as his background, personality, capacity, intelligence and circumstances that have resulted in the commission of the crime.

The method of implementation of the attendance order shall require the consent of the juvenile.

Article 30

The implementation of the attendance order referred to in Art. 27 of these Rules aims at protecting and strengthening the juvenile's integrity, furthering his development and developing a sense responsibility so as to prevent his relapsing into criminal behaviour.

Article 31

The juvenile may withdraw his consent to the implementation of the attendance order referred to in Art. 27 of these Rules by a written notification at any time.

The authorized person and the childcare authority shall warn the juvenile about the effects that the cessation of the attendance order of submission to an individual or a group treatment in a health-care institution or a counsel centre may have.

Article 32

The authorized person shall submit to the competent childcare authority the report on the implementation of the attendance order at least once a month as well as the final report upon the completion of implementation.

Upon the expiry of the attendance order of submission to an individual or a group treatment in a health-care institution or a counsel centre, the childcare authority shall submit to the court the final report on the basis of the report prepared by the authorized person.

III FINAL PROVISION

Article 33

These Rules shall enter into force on the eighth day of their publication in the «Official Gazette of the Republic of Montenegro».

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MINISTER,

Podgorica, 4 May 2007

Miras Radovic

