

## SERBIA

### **Criminal Code of the Republic of Serbia (adopted in 1990, lastly amended in 2003) (excerpts)**

#### **Criminal Code of the Republic of Serbia**

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[articles 111a and b translated by OSCE Mission to Serbia and Montenegro by the Legal Translation Unit of the OSCE Mission to Serbia and Montenegro - 17 April 2003]

(excerpts - emphasis added)

#### **CRIMINAL ACTS AGAINST RIGHTS AND FREEDOM OF MAN AND CITIZEN**

##### **Article 64. Kidnapping**

1. Whoever takes or keeps another person by force, threat, deception or in any other manner, without intending to release him until he extorts money or another material benefit from him or from a third person or until he forces him or a third person to do or not to do something or to suffer something shall be punished with at least three years of imprisonment.
2. Whoever threatens to kill or to inflict a serious bodily injury on the kidnapped person in order to fulfill the objective of the kidnapping shall be punished with at least five years of imprisonment.
3. The perpetrator of the act from Para 1 and 2 of this Article who releases the abducted person on a voluntary basis even though the objective of the abduction has not been achieved may be exempted from penalty.
- 4. If the kidnapped person is kept for more than 10 days or the kidnapping is carried out in a brutal manner or if the kidnapped person's health is seriously damaged or the minor is kidnapped or if other serious consequences have occurred; the perpetrator shall be punished with at least seven years of imprisonment.**
5. If the abducted person has died as a result, the perpetrator shall be punished with the at least twelve years of imprisonment, or with a 40 years of imprisonment.

#### **CRIMINAL ACTS AGAINST PERSONAL DIGNITY AND MORALITY**

(...)

##### **Article 103 Rape**

(1) Whoever compels to sexual intercourse a female person, with whom he does not live in matrimony, by the use of force or threat that he will directly assault her life or

body, or the life or body of a person close to her shall be punished by 1 to 10 years in prison.

(2) If the offence referred to in paragraph 1 of this Article resulted in a grave bodily injury of the female person, or if the offence was committed by several persons, or in a particularly cruel or particularly humiliating manner, the perpetrator shall be punished by at least 1 year in prison.

**(3) If the offence referred to in paragraph 1 of this article was committed against a minor, or if it caused death to the female person, the perpetrator shall be punished by at least 3 years in prison.**

#### **Article 104 Compelling to sexual intercourse or unnatural debauchery**

(1) Whoever compels to sexual intercourse a female person, by threatening to disclose about such female person or a person close to her something that might be harmful for their honour or reputation, or by threatening with another cruelty, provided there are no characteristics of another criminal offence shall be punished by 1 to 10 years in prison.

(2) The same penalty shall be imposed against a person who commits unnatural debauchery with another person in the manner referred to in paragraph 1 of this article.

(3) If the offence referred to in paragraph 1 and 2 of this article was committed by several persons, or in a particularly cruel or humiliating manner, **or against a minor female person who has more than 14 years of age** or resulted in pregnancy or serious infectious disease, **shall be punished by minimum 3 years in prison.**

#### **Article 105 Sexual intercourse or unnatural debauchery with a helpless person**

(1) Whoever commits sexual intercourse a female person by taking advantage of the mental disease, temporary mental derangement, infirmity or any other state of that person due to which she is incapable of offering resistance shall be punished by 1 to 8 years in prison.

(2) The same penalty shall be imposed against a person who commits unnatural debauchery with another person in the manner referred to in paragraph 1 of this article.

(3) If the offence referred to in paragraph 1 and 2 of this article caused a grave bodily injury of the helpless person, or if the offence was committed by several persons or in a particularly cruel or humiliating manner or resulted in pregnancy or serious infectious disease, the perpetrator shall be punished by minimum 3 years in prison.

**(4) If the offence referred to in paragraphs 1 and 2 of this article was committed against a minor who has turned 14 years of age or if the offence caused death of the helpless person, the perpetrator shall be punished by at least 5 years in prison.**

**Article 106. Sexual intercourse or unnatural lechery with a person under 14 years of age**

- 1. Whoever commits a sexual intercourse or unnatural lechery against a person under 14 years of age shall be punished from one, up to ten years of imprisonment.**
- 2. Whoever commits the act from Para 1 of this Article against a helpless juvenile under 14 years of age or by use of force or a threat to directly assault life or body of that person or a person close to him shall be punished with at least three year of imprisonment.**
- 3. If the act from Para 1 and 2 of this Article resulted in a serious bodily injury or a death of a juvenile or if the act was committed by several persons or in a particularly cruel or humiliating manner, or if the act caused a pregnancy or a difficult infection disease, the perpetrator shall be punished with at least five years of imprisonment.**
- 4. If the act from Para 1 and 2 of this Article caused death of the juvenile, the perpetrator shall be punished with at least ten years of imprisonment.**

**Article 107. Sexual intercourse or unnatural lechery through abuse of office**

1. Whoever compels to sexual intercourse or unnatural lechery a female person in any way subordinated or dependent on him through abuse of his official position shall be punished with six months to five years of imprisonment.
- 2. A teacher, educator, foster parent, adoptive father, step father or any other person who commits a sexual intercourse or unnatural lechery against a juvenile over 14 years of age entrusted to him for teaching, education, custody or care shall be punished with imprisonment from one up to ten years.**
3. If the act from Para 2 of this Article is committed against a person under 14 years of age, or if the act caused a pregnancy or a difficult infection disease, the perpetrator shall be punished with at least three years of imprisonment.

(...)

**Article 111a Exploiting minors for pornography**

**(1) Whoever makes a photograph, film/video or other recording of a minor for the purpose of producing items of pornographic content or sale of such items or sells, distributes or shows such material or induces a minor to take part in a pornographic show, shall be punished with imprisonment from one to five years.**

**(2) If the offence referred to in paragraph 1 of this Article is committed against a person under the age of 14, the perpetrator shall be punished with a term of imprisonment of minimum three years.**

**Article 111b Human trafficking**

(1) Whoever by use of force or means of threat, by deception or perpetuation of deception, the abuse of power, trust or of a position of subordination or vulnerability

of another person: recruits, transports, transfers, surrenders, sells, buys, acts as an intermediary in transfer or sale, conceals or keeps another person for the purpose of obtaining some gain, exploitation of labour, criminal activities, prostitution or begging, for pornographic purposes, removal of organs for transplantation or exploitation in armed conflicts, shall be punished with imprisonment from one to ten years.

(2) If the offence referred to in paragraph 1 of this Article has been committed against several persons, by kidnapping, while performing official duty, within a criminal organisation, in a particularly cruel or humiliating way or causing a severe bodily harm, the perpetrator shall be punished with imprisonment of minimum three years.

**(3) If the offence referred to in paragraph 1 of this Article has been committed against a minor or resulted in death of the injured party, the perpetrator shall be punished with imprisonment of minimum five years.**

**(4) The perpetrator of the offence referred to in paragraph 1 of this Article which has been committed against a person under the age of 14 shall be punished as provided for such offence even if he/she does not use force, means of threat or other method referred to in paragraph 1 of this Article.**

(...)