

## **Recommendation for Montenegro:**

### ***3. Maintain efforts to continue reaching a higher level of human rights standards with regard to the issues of freedom of the media, functioning of the judiciary and the situation of refugees (Turkey)***

Aspiring to meet the Copenhagen Criteria, Montenegro has begun upgrading its legislation and establishing an institutional human rights framework including the adoption of a specialized legislation on juvenile justice.

Adoption of the Treatment of Juveniles in Criminal Proceedings Act in December 2011, provides a clear commitment of the Government of Montenegro to set up rights-based system of juvenile justice and alignment of the system with international and European child-rights principles as recommended by UN Committee on the rights of the child.

Particularly notable progress has been made in the application of educational orders of Victim/Juvenile Offender Settlement through Mediation. In 2008 and 2009 there were very few cases of diversion from regular court procedure to application of educational orders, while in 2011 the figure has reached the number of more than 60 educational orders imposed, out of which 53 cases have been successfully resolved through Victim/Juvenile Offender Mediation. The use of VOM proved to be very successful, with support for its use coming from police, prosecutors, judges and social workers. This represented a major step forward in moving the agenda on responding to children in conflict with the law away from a purely punitive approach.

An analysis of the data from the Statistical Yearbooks produced by MONSTAT for 2006 (SY MNE – 2007), for 2007 (SY MNE – 2008), 2008 (SY MNE – 2009) and 2009 (SY MNE – 2010), and 2010 (SY MNE – 2011) reveals that the number of criminal offences committed by juveniles is steadily increasing. The number of pre-trial procedures instituted against juveniles, as well as the number of juveniles sentenced has varied over the past couple of years. However, the data shows that the number have dropped significantly against those for the preceding period, which may be ascribed to the application of alternative procedures and measures, in line with the current juvenile justice reform. For example, in 2007, the number of criminal acts reported to be committed by juveniles was 314, it was 302 in 2008, 310 in 2009, while in 2010 the number was 316. Number of juveniles accused of criminal acts was 215 in 2006, 194 in 2007, 211 in 2008, 276 in 2009, and 196 in 2010, while the number of juveniles convicted of criminal acts was 208 in 2006, 148 in 2007, 192 in 2008, 254 in 2009, and 177 in 2010.

The use of pre-trial detention for juveniles has also varied over the past couple of years (in 2007, 18 juveniles were subject to detention, 5 of which were held for over 3 months, in 2008 10 juveniles were subject to pre-trial detention up to 30 days, 13 were subject to detention in 2009, 7 of which up to 30 days and 5 of them from 1 to 2 months, while in 2010 16 juveniles were subject to detention, of which 15 from 3 days to 30 days, and 1 juvenile for over 3 months).

The number of imposed educational measures of increased supervision by parents, guardians and adoptive parents increased continuously (from 129 in 2007, 202 in 2008 to 246 in 2009 and 216 in 2010).

A clear trend of constant decrease in the number of imposed measures of placement in an educational institution and prison can be observed: 6 children were placed in educational institution in 2007, 5 in 2008 and 7 in 2009. 14 juveniles were sentenced with imprisonment sanction in 2007, twelve of them up to 2 years and two from 2-3 years, 8 in 2008; seven of them up to 2 years and one juvenile from 5 to 8 years of imprisonment and 11 juveniles were sentenced with imprisonment sanction in 2009, ten of them up to 2 years and one juvenile from 5-8 year, and 7 juveniles were sentenced to a prison term in 2010, of which 5 for a term up to 2 years, 1 to a term from 2-3 years, and 1 to a term from 8-10 years.

Although great progress has been made in the past three years in particular, additional and sustained efforts are needed before crucial components of the system can fully comply with international standards. Challenges in both legislative and policy frameworks, and in the capacity of professionals to administer juvenile justice cases and cases involving children victims and witnesses of crime in a manner consistent with child rights and international standards remain.

Montenegro is still lacking a uniform juvenile justice data collection and information system, and this lack limits the knowledge base on existing practice and the effectiveness of policy initiatives.

Whilst progress has been made in raising the skills, knowledge and awareness of professionals in the justice system on the rights of children in conflict with the law, changes envisaged in the Treatment of Juveniles in Criminal Proceedings Act mean that professionals will need support in mastering new areas of practice.

While progress has been made in reorganization of the semi-open institution “Ljubovic” additional efforts are needed to improve existing and develop new rehabilitation and reintegration programmes of work with children in conflict with the law residing in semi-open and residential institutions.

Finally, while significant efforts have been made in promoting alternatives to criminal prosecution, further action is required to increase their practical application and raise awareness of juvenile justice professionals on the benefits of alternative measures and sanctions for juveniles in terms of promoting their rehabilitation and re-socialization.