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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1 \***

**Montenegro**

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\* The present document was not edited before being sent to the United Nations translation services.

## **I. METHODOLOGY**

1. The present report has been prepared in line with the General Guidelines for the preparation of information under the Universal Periodic Review mechanism.
2. The Government of Montenegro has set up an Inter-ministerial Working Group tasked with preparation of the National Report, co-ordinated by the Ministry of Foreign Affairs. The report has been drafted on the basis of information provided by ten key Ministries, administrative agencies responsible for specific areas relating to protection and promotion of human rights and freedoms and Office of the Ombudsman.
3. With a view to ensuring a broad consultation process in preparing the information, the Report has also been made available to the civil sector.<sup>1</sup>
4. Chapter II comprises background information on the country, including the normative and institutional framework for promotion and protection of human rights. Chapter III deals with exercise of individual human rights and freedoms and their safeguarding. Chapter IV addresses key national priorities and initiatives aimed at achieving the highest international standards.

## **II. BACKGROUND INFORMATION AND NORMATIVE AND INSTITUTIONAL FRAMEWORK**

### **A. Background information on the country**

5. Following the restoration of independence on the basis of a referendum held on 21 May 2006, the Assembly of Montenegro has passed the Declaration on Independence, proclaiming Montenegro an independent and sovereign state taking over its international commitments. In line with the Declaration and the Decision on Independence, Montenegro has acceded to a comprehensive process of succession to international treaties it was party to under former state arrangements.
6. Under the Constitution of Montenegro adopted on 19 October 2007 Montenegro is an independent, sovereign state, with a republican system of governance. Montenegro is a civic, democratic, ecological and a welfare state, governed by the rule of law.
7. The organization of the state is based on the principle of division of powers between the legislative, executive and the judiciary. The system is based on checks and balances. The armed forces and the security services are under a democratic and civil control.

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<sup>1</sup> The Government of Montenegro adopted the National Report on 31 July 2008 and taking into account deadline for the submission of the Report to the Human Rights Council all interested parties were invited to submit their comments until 21 August. The intention of the Government of Montenegro was to contribute to the objective overview of the human rights situation in Montenegro through openness to suggestions and comments. Human Rights Action and Independent researcher of violation of human rights have submitted their comments until August 21. Due consideration has been given to the received comments which represent important contribution to the dialogue, between the Government and civil society, on the respect and promotion of human rights. In general, comments provide recommendations for amendments of certain pieces of legislation. In addition, the need for further enhancement of the Government activities in the field of social inclusion of Roma is emphasized. Also, responsible institutions are invited to conclude investigations in several cases of human rights violation and to clarify unresolved murder cases. Comments and suggestions will be submitted to competent authorities. Communication and cooperation with all interested parties will be continued after the submission of the National Report to the HRC in order to ensure comprehensive presentation of the Report at the Third session of the UPR Working Group.

8. The framework of the internal legal system has been set up under Article 9 of the Constitution on the basis of the principle that ratified and published international treaties and universally accepted rules of international law form an integral part of the internal legal system and take precedence over the national legislation and apply directly when regulating matters differently from the relevant national legislation.

9. A competitive economy ensuring a long-term stability is the chief guarantee for development of a free market economy based on an unhindered exchange of ownership rights. Within this framework strategic development priorities include: implementation of the principle of sustainable development coupled with growing economic freedoms and a strengthened role of the private sector; strengthening the rule of law as the precondition for building modern institutions of parliamentary democracy and protection of fundamental human values and rights and improvement of the living standards by offering an enhanced quality of public services through effective and sustainable systems of education, public health and social welfare.

#### **B. Normative and institutional framework for promotion and protection of human rights**

10. The underlying provisions of the Constitution represent the essence and a general guarantee of protection and exercise of human rights and freedoms, prohibit inciting hatred or intolerance for any reasons, as well as any discrimination as a general precondition for the exercise of all human rights and freedoms. Under the Constitution everybody is equal regardless of any distinctive or individual characteristics. The Constitutional norms relating to human rights and freedoms are, in addition to the general provisions and provisions on the Ombudsman, classified into four groups as follows: individual rights and freedoms; political rights and freedoms, economic, social and cultural rights and freedoms, and special minority rights.

11. Protection of human rights and freedoms starts from the protection of undoubtedly most important human right – the right to life – by prohibiting capital punishment. In addition to this, it guarantees the right of the individual and dignity of the human being in regard of biological and medical uses, as well as the dignity and security of the individual. The Constitution, inter alia, guarantees the right to a fair and open trial, respect of the principle of legality and the right to application of the more lenient law, application of the presumption of innocence, respect of the principle *ne bis in idem* and the right to defence.

12. The Constitutional Court decides on constitutional complaints related to violations of human rights and freedoms enshrined in the Constitution after all the other effective remedies have been exhausted, while civil and penal legislation offer a broad spectrum of other mechanisms for protection of human rights. Namely, under the Constitution everyone is entitled to a legal remedy against a decision determining his/her right or interest based on the law. All procedure laws ensure the right to an effective legal remedy through regular and extraordinary legal remedies. Under the provisions of the Civil Procedure Law a new institute has been introduced, that of re-opening of legal proceedings in the instances when the European Court of Human Rights has ascertained a violation of a human right or a fundamental freedom as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Penal Code stipulates an array of criminal offences including offences against the rights and freedoms of the person and citizen, against the electoral rights, offences damaging honour and reputation, offences against humanity and other common causes protected under international law, the criminal offence of domestic violence and others.

13. On the basis of legal succession Montenegro became party to the International Covenant on Civil and Political Rights, including both Optional Protocols, the International Covenant on

Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Punishments or Procedures, the International Convention on Elimination of all Forms of Racial Discrimination, the Convention on Elimination of all Forms of Discrimination against Women, including the Optional Protocol, the Convention on the Rights of the Child, including both Optional Protocols, the Convention on Prevention and Punishment of the Crime of Genocide, Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention against the Apartheid in Sports, the Convention on the Status of Refugees, the Convention on the Status of Stateless Persons and the Geneva Conventions. Montenegro is signatory state to the International Convention on the Protection of the Rights of Migrant Workers, the Convention on the Protection of all Persons against Enforced Disappearances, the Convention on the Rights of the Persons with Disabilities and the Optional Protocol thereof.

14. The following institutions are involved in different segments of protection and promotion of human rights and freedoms: the Ministry for the Protection of Human and Minority Rights, the Ministry of Justice, the Ministry of Interior and Public Administration, the Ministry of Education and Science, the Ministry of Culture, Sports and the Media, the Ministry of Health, Labour and Social Welfare, the Ministry of Tourism and Environment, the Ministry of Finance, the Ministry of Foreign Affairs, the Office for Gender Equality, the Office for Cooperation with NGOs, Office of the Ombudsman, the Office for Sustainable Development, the Office of the National Coordinator for Combating Trafficking in Human Beings, the Office for Refugee Care, the Police Directorate and others. The starting point for the operation of the Ombudsman is taking action on complaints of the citizens or on his/her own initiative in order to protect the citizens from unlawful, improper or maladministration of national or local administration, as well as other holders of public office. The Ombudsman acts in two directions: issues timely alerts against violations of human rights of the citizens and helps them exercise their rights, thus contributing to a democratic control of the public administration and its improvement.

### **III. IMPLEMENTATION**

#### **A. Gender equality**

15. The Constitution of Montenegro guarantees equal rights for all the citizens without any discrimination on any grounds.

16. The Constitution guarantees that women and men are equal and creates a basis for promotion of an equal opportunity policy. The Constitution prohibits any direct or indirect discrimination on any grounds. The Law on Gender Equality was adopted in 2007 and under this Law the Ministry for the Protection of Human and Minority Rights is in charge of affairs relating to ensuring gender equality.

17. There are two mechanisms in Montenegro for achieving gender equality – at the Parliamentary and Governmental level. The Committee on Gender Equality has been set up in 2001 with a mandate to monitor the exercise of freedoms and rights of man and citizen relating to gender equality. The Government Office for Gender Equality has been established for the purpose of conducting affairs related to the realization of the project entitled “Establishment of a Mechanism for Equal Opportunities between the Genders with the Government of the Republic of Montenegro” and it coordinates the activities of the Governmental and non-governmental bodies and organizations, as well as of local and international organizations dealing with issues of gender equality and of women’s human rights. The Office, as part of the General Secretariat of the Government, is tasked with creating conditions for ensuring equality and equal

opportunities for women and men in accordance with the established international standards and cooperation with international, local and non-governmental organizations.

18. The Government of Montenegro, on 31 July 2008, adopted the Plan of Activities for Achieving Gender Equality in Montenegro for the period 2008-2012 (PAAGE) which represents a framework for the implementation of gender equality policy and operation of the Office and other authorities of the state. The Document, prepared in collaboration with women's NGOs, is based on international and national legal documents and covers European integration, education, health, violence against women, economy and sustainable development, politics and decision-making, media and culture and institutional mechanisms for creating and implementing the policy of gender equality.

19. Women in Montenegro enjoy a de jure equality, while practice shows that there are still areas in which they are in a less privileged position compared to men. Imbalance when it comes to distribution of power between men and women is reflected in under-representation of women in government. The representation of women in the Parliament of Montenegro is 11 per cent, while in the Government of Montenegro the offices of one Deputy Prime Minister and two Secretaries are discharged by women. In local parliaments the proportion of women is 11.37 per cent. In the judiciary of Montenegro 45.8 per cent of holders of office are women. In order to increase the number of women in politics an initiative has been launched to introduce quotas for their participation. Women account for 44.27 per cent<sup>2</sup> of the total number of the unemployed, while they are founders or managers in about 16 per cent of companies. They tend to set up micro companies of one or two employees.<sup>3</sup> The Labour law, entered into force on 23 August 2008, introduces for the first time ban on sexual harassment and ban on discrimination based on gender. In the sphere of education practice shows that women are increasingly more educated and that they tend to complete university education more than men. According to a survey on use of information and communication technologies conducted in 2007, 46.6 per cent of the women surveyed were using a computer and out of these 78 per cent were using the internet, while 68,4 per cent of the women surveyed could speak English. With regard to domestic or family violence, which is not pronounced, statistics show that women are victims in more than 65 per cent of violence cases, whereas men are the perpetrators in more than 95 per cent of these cases. With a view to dealing with the social problem of domestic violence in accordance with a Judiciary Reform Strategy for 2007-2012 and the Action Plan for the implementation of the Strategy a Law on Protection against Domestic Violence is to be passed, which will additionally address the issue of domestic violence with a view to establishing a system of specific protection measures and ensuring support for the victims.

20. Changes are noticeable when it comes to the overall position of women as a result of the work done by the Office for Gender Equality and the NGO sector towards eliminating stereotypes and raising awareness of the citizens of gender equality and the human rights of women. The Government priorities in this field are: adoption and implementation of the Plan of Activities for Achieving Gender Equality, more effective enforcement of the Gender Equality Law, bringing the legislation in line with the international documents in this area, reinforcing the existing and setting up new mechanisms promoting gender equality.

## **B. Rights of the child**

21. Under the Constitution children enjoy rights and freedoms appropriate for their age and maturity level. The child is guaranteed special protection against psychological, physical,

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<sup>2</sup> Montenegro Office for Employment, February 2008

<sup>3</sup> Chamber of Commerce, November 2007.

economic and any other exploitation or abuse. The Family Law provisions have been brought in line with the underlying principles of the United Nations Convention on the Rights of the Child, including abidance by the guiding principle of the best interest of the child, obligation of the state to respect and promote the rights of the child and undertake all measures to ensure his/her protection against neglect, abuse and exploitation. The Penal Code contains special provisions relating to minors, stipulates the conditions of application of such provisions and determines the limit of criminal liability of minors in regard of the application of sanctions. In accordance with the above, criminal sanctions cannot be applied against a minor younger than 14 years of age at the time of committing a criminal offence.

22. A pilot project carried out by the Ministry of Justice in cooperation with the UNICEF entitled “The Reform of Juvenile Judiciary” was initiated by the signing of a Memorandum on Cooperation between the Ministry of Justice, the Supreme State Prosecutor and UNICEF on 30 June 2006. This has set the basis for the implementation of a project entitled „Application of alternative measures and sanctions to minor offenders in Montenegro“, which creates conditions for application of the institute of out-of-court settlement between the injured party and the suspect for the purpose of compensation for damage in order that harmful consequences of the criminal offence can wholly or in part be eliminated. Under the project more than 100 professionals have been trained in the field of juvenile judiciary. Education has been organized on mediation between the victim and the offender and a comprehensive transformation of the Centre for Children and Young People has been initiated, entailing its reform and upgrading of the programme of work with the children-inmates, coupled with establishment of a Mediation Centre.

23. The institutional framework for the protection of the rights of the child comprises the Ministry of Health, Labour and Social Welfare, the Ministry of Education and Science, the Ministry of Justice, preschool and school facilities, social work centres, courts, the police, the Parliament, the Office of the Ombudsman, and the Council for the Rights of the Child. The Council, established by the Government in 2007, monitors the implementation of the 2004-2010 National Action Plan for Children. The Parliament is expected to appoint in near future a Deputy Ombudsman responsible for the rights of children.

### **C. Protection of the rights of the persons with disabilities**

24. With a view to achieving an enhanced protection of the persons with disabilities in 2007 a Strategy on Inclusion of the Persons with Disabilities in Montenegro for 2008-2016 has been adopted. Priority activities conducive to the long-term goal include: creating a Strategy for the full integration of the Persons with Disabilities, harmonization with the experience and practice of the countries of the EU, increasing the number of social services and building-up the capacity of NGOs dealing with these issues. The National Strategy has been drafted on the basis of the solutions contained in the domestic and international documents on treatment of the persons with disabilities as an issue of respect of human rights in the first place. The priorities defined by the Action Plan for the implementation of the Strategy in the first two years are related to amendments of the legislation, architectural adaptations, cooperation with NGOs and, in particular, integrating the health care system with the education and social welfare of the persons with disabilities. In the field of education, inclusive preschool, elementary and secondary education has been envisaged for developmentally challenged children in the communities in which they live, along with a transformation of special institutions into resource centres. In regard of professional rehabilitation and employment of the persons with disabilities the emphasis is placed on encouraging self-employment and entrepreneurship. In early 2008 a Law on Guide-dog-aided Motion of a Blind Person has been passed and a draft Law has been prepared on protection of the persons with

disabilities against discrimination. The Parliamentary procedure is now under way for the adoption of a Law on Professional Rehabilitation and Employment of the Persons with Disabilities.

25. Under the Government Programme of Work, a Law on Ratification of the United Nations Convention on the Rights of the Persons with Disabilities is to be submitted to the Parliament for adoption by the end of 2008.

#### **D. Dignity and inviolability of the person, respect of the right to privacy**

26. The Constitution guarantees the dignity and security of the person, as well as inviolability of his/her physical and psychological integrity, privacy and individual rights. No one should be subjected to torture or inhuman or degrading treatment. Also, no one should be kept in slavery or in a position of a slave. The Constitution guarantees respect of the human personality and dignity in penal or other proceedings, in the event of detention or limitation of freedom and during a prison sentence. Any violence, inhuman or degrading treatment against a detainee or a person in a position of limited freedom is prohibited and subject to punishment. Extortion of confessions or statements is also prohibited. Detention is permissible solely for reasons and in a procedure stipulated by the law and the detained person must be immediately informed in his/her language, or a language they can understand of the reasons of detention. A person in regard of whom there is a reasonable doubt to have committed a criminal offence may on the basis of a decision of the competent court be detained and kept in custody only in the event that this is necessary for the purpose of conduct of the criminal proceedings. On the basis of the decision of the court of first instance the detention can last at the longest three months from the date of detention and on the basis of the decision of a higher court, it can be extended for additional three months. A minor can be detained for a period of 60 days at the longest.

27. Premises used for the purpose of keeping detainees in custody must meet necessary sanitary and technical requirements, particularly in terms of cubic volume of the air, minimum floor space, lighting and ventilation. In view of the importance of legality in treatment of detainees, of safeguarding their psychological and physical integrity and ensuring exercise of their rights during the police procedure, the Police Directorate has made considerable effort to eliminate the inadequacies noted thus far, in particular in regard of the conditions of police detention premises. In this regard, under the Rules stipulating the conditions to be met by the premises for detaining persons in police custody since 2006 concrete reconstruction activities have been undertaken in order to ensure that such premises meet the conditions prescribed by the above Rules. Activities have also started to introduce video surveillance of the detainees.

28. Each detainee is handed the so-called "Detainee Information Paper", the receipt of which is certified by the detainee's signature. The Information Paper is printed in the Montenegrin, English and Albanian languages and it is designed to ensure that the detainee at the moment of detention is once again made aware of his/her rights, i.e. that each police officer must inform the detainee in his/her tongue or a language they understand that he/she has been detained, explain the reasons of the detention and inform the detainee that he/she is not obliged to make any statements, that he/she may engage a defence counsel of their choice, that at his/her request the next of kin can be notified of his/her detention, that he/she is entitled to receiving a meal at regular intervals in line with his/her religious beliefs and that he/she has access to drinking water.

29. Over the preceding year a media campaign has promoted a telephone line to which citizens can direct their representations and complaints against actions by the police with a

special emphasis on the fact that each citizen has the right, among other things, to file a complaint if he/she believes to have been unlawfully detained. The issue of guaranteed human rights and freedoms and the issue of limitations thereof have also been addressed through the Law on Execution of Penal Sanctions stipulating a system of execution of sanctions, security and re-education measures. Actions subjecting a convicted person to any form of torture, cruel or degrading treatment, medical or scientific experiments are prohibited and punishable under the law and the person who has been victim of such treatments has the right to compensation for damage. The conditions made available to the convicted person enable the convict to fulfil his/her basic cultural and religious needs, as well as maintain personal hygiene and physical exercise. For the convicted persons and in particular minors and younger convicts of age who have not completed the elementary school, elementary school tuition is organized. In addition to this vocational training may also be organized.

30. Under the 2007-2012 Strategy for the Reform of the Judiciary the penitentiary system is treated as a separate segment, the improvement of which calls for setting specific objectives as follows: creation of conditions for supervising execution of probation order, release on parole and community work (establishment of Probation Service), creating conditions for separating specific categories of convicts (minors, foreign nationals), ensuring adequate accommodation facilities, improvement of the security system, continuous vocational training, professional development of and knowledge tests for prison officers, as well as improvement of the treatment of convicted persons (introducing various programmes – educational, work, cultural, sports, etc). Office of the Ombudsman in their assessment of the respect of human rights of detainees has found that the conditions of detainees in regard of the premises in which they pass their time have been considerably improved compared to the past. A new building has been constructed with three physically separated blocks, i.e. there are separate entrance doors for the blocks accommodating minors, women and foreign nationals. The Ombudsman has recommended that the Parliament ratify the Optional Protocol to the United Nations Convention against Torture providing for National Mechanisms for the Prevention of Torture. In order to pre-empt any problems with the implementation of the Optional Protocol after its ratification, under the OSCE auspices an Inter-departmental Working Group has been established, which is examining the modalities of functioning of this National Mechanism.

31. Pursuant to the Police Act, the Ministry of the Interior has in 2006 approved a Code of Police Ethics. The Code represents a body of guiding principles for actions by authorized police officers in conducting their official duties, based on the respect of human rights and freedoms of all the citizens, without any form of discrimination for any reason. In order to examine the ethics of police conduct the Minister has issued a Decision on establishment of an Ethical Committee, which is tasked with implementing the provisions of the Police Act, the Code of Police Ethics, the European Police Ethics Code and the European Convention on Human Rights.

32. The Police Act introduces the institute of civic control of the police, which is conducted by the Council for Civic Control of the Police appointed by the Parliament. The Council is composed of five members nominated by the Bar Association, the Medical Association, the Association of Lawyers, the University of Montenegro and NGOs engaged in human rights issues. At the request of the Council the Police are obliged to provide the information needed.

33. In the period since the restoration of independence disciplinary proceedings have been conducted against 22 police officers due to overstepping of their authority, which resulted in violations of human rights. The measure of termination of the employment contract was pronounced in 7 and the maximum pecuniary sanction in 15 cases.

34. Everyone is entitled to the respect of their private and family life. Any use of data relating to a person is prohibited beyond the purpose for which such data has been collected and everyone has the right to be informed of the data collected about him/her, along with the right to seek legal redress in the event of abuse. The right to secrecy of the letter, telephone conversation and other means of communication can be restricted only by the decision of the court of law, provided this is necessary for the conduct of criminal proceedings or for reasons of the security of Montenegro. The Law on Data Secrecy provides for a uniform system for determination of data secrecy, access to secret information, storing, use, registration and protection of secret data. Abidance by this Law is the obligation of the authorities of the state, government agencies, local government authorities and other legal persons entrusted with discharging public office, as well as legal and natural persons. The Law provides for a system of limitations of the right to respect of private and family life in proceedings which imply judicial control, i.e. a court order for such measures as the search of a flat, possessions and person.

35. Guarantees to the right to trial within a reasonable time apply to the entire judicial procedure, along with full respect of the dignity of the person and protection of the rights of all the participants in the legal process and the principle of expediency when minors and detainees are concerned. Because of the excessively long duration of court proceedings the legislator has decided to pass a specific Law on the Protection of the Right to Trial within a Reasonable Time. The standard of the length of the reasonable time frame is established in line with the practice of the European Court of Human Rights. The Law provides for two protection mechanisms: control request for the acceleration of the proceedings and action for a fair reparation.

36. Due to its geographical position there is a great risk for Montenegro to increasingly become a transit country for trafficking in human beings. The Government has developed a comprehensive normative, institutional and organizational approach through a concerted action with the NGOs and international organizations with a view to combating trafficking in human beings more effectively. The National Strategy, comprising three segments – criminal prosecution of the perpetrators, protection of the victims and prevention of trafficking in human beings – is fully harmonized with the Palermo Protocol and comprises specific legislative, administrative and practical measures with comprehensive guidelines for action by all the stakeholders. Montenegro has appointed a Special Prosecutor for Organized Crime to ensure furthering its efforts in this field. In the period from 1 June 2006 to 1 June 2008 four criminal offences involving trafficking in human beings have been registered in Montenegro, with criminal complaints filed against eight persons. One criminal complaint has been filed for the criminal offence of trafficking in children for the purpose of adoption and three criminal complaints have been filed for the criminal offence of procuring in prostitution.

#### **E. Refugees and asylum-seekers**

37. The number of displaced persons currently residing in Montenegro is 23,402, out of which 16,143 are internally displaced persons and 7,259 are displaced persons from the republics of former Yugoslavia<sup>4</sup>. Updating of the data base is done on a daily basis. In the 1990s as a result of the wars in the territory of the former Yugoslavia some 130,000 displaced persons took refuge in Montenegro, which accounted for 24 per cent of Montenegro's population.

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<sup>4</sup> Phrase displaced and internally displaced persons is still in use because the Decision on temporary preservation of status and rights of displaced and internally displaced persons in the Republic of Montenegro is still effective (Official Gazette No: 46/06)

38. At the end of 2006 the Government has transformed the Office of the Commissioner for Displaced Persons into the Office for Refugee Care. In addition to taking care of refugees, the competences of the Office have been expanded to include: administrative affairs defined under the Asylum Law; cooperation with the UNHCR, the Red Cross of Montenegro and other organizations involved in taking care of refugees; assistance in re-joining of refugee families; integration of refugees in the social, economic and cultural life, as well as other tasks. The Office for Refugee Care helps the refugees exercise their right to obtain IDs, as well as the right to health care, education and resettlement. It also coordinates and intercedes with international organization, municipal and national services in order to ensure that they exercise their individual rights.

39. With a view to realizing Montenegro's general objective - a lasting solution to the issue of refugees and displaced persons - in March 2005 a document entitled "A Strategy Conducive to a Lasting Solution to the Issue of Refugees and Displaced Persons in Montenegro," was adopted, including a series of projects addressing the issue of repatriation and integration. Implementation of the activities envisaged under the Strategy required considerable funds, from domestic, as well as foreign sources. Only implementation of activities related to the integration of refugees and IDPs would have required in excess of €100 million over the period of the exercise duration. In July 2005 a Donor Conference was organized, including participation of representatives of international institutions and organizations. Expected positive impact of realization of the Strategy objectives and expected donor interest towards achieving lasting solutions mostly failed to materialize. Only the European Agency for Reconstruction committed €3 million in support of some of the projects. In order to achieve the Strategy objectives Montenegro has been working primarily with international partners like UNHCR, the OSCE, the European Commission, HELP and others.

40. Collective shelters have over the years been a principal form of refugee care and continue to be so. Tens of thousands of people have benefited from this form of accommodation and the interest of the displaced persons for it is still present. The situation as of the end of 2007 was as follows: in 16 municipalities in Montenegro there was some form of collective facilities accommodating refugees or displaced persons or both. One-off pecuniary assistance that is being provided for these people is also very important. Those eligible for such assistance were the individuals in an extremely serious situation in terms of health, financial or family issues. The amount of the pecuniary assistance ranged from 30 to 100 euros (in exceptional cases 150 €), depending on the character of the problem. The Health Insurance Fund is providing for these people the same level of health care provided to the paying beneficiaries within the health system of Montenegro. The refugees and IDPs are entitled to pre-school and elementary education in schools established by the state. They can also have access to higher education. Over 4,000 refugee and IDPs—pupils are attending the elementary school. Over the past three years 966 persons have returned to Kosovo, while 5 families with 15 members have returned to Croatia and Bosnia and Herzegovina. Under a project entitled "IDI VIDI"/"Go and See" displaced persons from Kosovo have been able to visit Kosovo and see first hand the possibilities for return. Montenegro is certainly not able to deal by itself with issues that are dependant on economic situation. Despite all these issues Montenegro and all the institutions remain committed to working towards finding lasting solutions in line with the National Strategy and in collaboration with the countries of the region.

41. Care for asylum-seekers and persons who have already been granted asylum includes assistance in regard of exercising rights to accommodation, education, health care and social welfare, along with the right to work, freedom of religion, legal and humanitarian assistance, family re-joining, integration into the community and other rights provided for by the Asylum

Law. The Asylum Law is the first law in this field in Montenegro stipulating the principles, conditions and procedure of the asylum, recognition of refugee status and approval of additional and provisional protection, the rights and obligations of asylum-seekers who have been granted refugee status and additional and provisional protection, as well as the reasons for cessation and termination of the refugee status and provisional protection and termination of the provisional protection in Montenegro. In view of the fact that the Centre for Asylum-Seekers is under construction, the Office for Refugee Care managed to find alternative solutions for their accommodation. It is the Ministry of the Interior and Public Administration that is in charge of conduct of the asylum procedure of first instance. Under the Asylum Law the affairs within the remit of the Ministry are performed by the Asylum Office. The procedure relating to the complaints lodged against decisions of the first instance organ is conducted by the State Commission for Asylum Complaints. The Asylum Law respects the standards of the 1951 Geneva Convention on the Status of Refugees and the 1967 New York Protocol and abides by the principle of prohibition of expulsion. This Law ensures protection of particularly vulnerable persons, including minors, persons fully or partially deprived of legal capacity, unaccompanied minors, persons with mental or physical disability, old persons, expectant mothers, single parents with under-age children, persons who have undergone torture, rape or other grave forms of psychological, physical or sexual violence and other vulnerable persons. In 2007 and 2008 6 persons submitted applications for asylum in Montenegro. Out of these persons refugee status has been recognized to only one person, while the proceedings concerning two asylum-seekers have been stopped and in three cases the application was rejected. Although the practice of the asylum system in Montenegro is relatively modest, all the asylum-seekers were enabled to submit an application for asylum, make a statement on facts and circumstances relevant for the decision-making, as well as submission of the petition in a language that asylum-seekers have said to understand through a translator provided by the Asylum Office. They have also been given information on the conditions and procedure of the asylum, their rights and obligations and explained how to maintain communication with persons providing legal assistance and the UNHCR.

#### **F. Freedom of expression and opinion, right to be informed**

42. The Constitution guarantees the right to freedom of opinion and that everybody has the right to freely express themselves through speech, writing, painting, or in other manner. The right to freedom of expression can be limited only by the right of others to dignity, reputation, and honour, and if public morals or security of Montenegro are in peril. The Constitution guarantees freedom of the press and other forms of public information means. The right to respond and the right to correct false, incomplete, or inaccurately published information that is damaging somebody's right or interest is also guaranteed, as well as the right to compensation of damage caused by publication of false data or information. The Constitution anticipates the exemption of ban of censorship only in the case when decided by competent court for preserving constitutional order, territorial integrity of Montenegro, preventing incitement to war or to violence or criminal offence, and preventing incitement to racial, ethnic, and religious hatred or discrimination.

43. Media laws (Media Law, Broadcasting Law, Law on Public Broadcasting Services Radio Montenegro and TV Montenegro) regulate implementation of the right to expression. When drafting these laws, the starting point were principles contained in the International Covenant on Civil and Political Rights, European Convention on Human Rights and Fundamental Freedoms, Council of Europe Declaration on Freedom of Expression and Right to be Informed, Council of Europe Convention on Trans-boundary TV, and Council of Europe recommendations. Media Law states that this Law should be implemented in line with principles of the European

Convention on Human Rights and Fundamental Freedoms, using the case law practice of the European Court of Human Rights. The Law prescribes that the Government shall provide part of funds for the implementation of citizens' rights to be informed without discrimination, based on programs which are important for development of science and education, development of culture and informing of persons with damaged hearing and sight, as well as the rights that are guaranteed by the Constitution and laws. Media Law and Broadcasting Law prohibit monopoly in the area of information. In addition, there is an obligation to protect the minors. Broadcasting Law regulates the broadcasting area and the operations of electronic media, based on principles of freedom, professionalism, and independence of electronic media, prohibition of any form of censorship or illegal interference in their operations, development of competition and pluralism in the broadcasting area, objectivity, non-discrimination, and transparency of procedure for granting licenses, as well as other principles in the context of promotion of basic human rights and freedoms. All broadcasters are responsible for the contents of their programs, and obligated to comply with and promote basic human rights and freedoms, democratic values and institutions, pluralism of ideas, a public dialogue culture and comply with language standards, citizens' privacy and dignity.

44. In order to implement the right of citizens to be informed in their own language, the Government is obligated to provide part of the funds for certain programs in Albanian and other minorities' and ethnic groups' languages. This Law provides for establishment of regional radio and TV studios, but they have the obligation to produce and broadcast regional programs and programs in the languages of minorities which live in that area. Public Service Radio and TV Montenegro, according to the Law, are broadcasting program in the Albanian language. This particular program is in fact a news program, prepared and implemented by Albanian language editorial team<sup>5</sup>. Ministry of Culture, Sports, and Media every year announces open competition for financing of programs and projects in the media field, in order to stimulate production and publication of contents that primarily relate to promotion of tolerance and culture of dialogue, cultural and artistic creativity, implementation of the right to be informed, etc. Regarding the way in which minorities are getting informed through printed media, in Montenegro the largest number of these publications is in the Albanian language, but we also have publications in Croatian, Roma, and Bosnian languages, as well. Operations of printed media are often dependent on economic capabilities, although the Government provides a certain level of support.

45. The Constitution envisages that everybody has the right to access the information in possession of the government bodies and organizations performing public services. Freedom of Information Law defines the manner and procedure for citizens to seek, receive, and use information in possession of government bodies. Both Montenegrin and foreign natural and legal persons, without any discrimination, have the right to access information in possession of government bodies. In order to create the conditions for implementation of Freedom of Information Law, Ministry of Culture, Sport, and Media conducted number of trainings for government bodies' employees, in charge of dealing with information requests. In line with the Law, all government administration bodies have produced a guide to access information, which are in possession of that specific body, and they published them on their official web page.

46. Ministry of Culture, Sports, and Media is the competent institution in charge of managing audio-visual policy. The Broadcasting Agency, established in 2003, and legally separated and

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<sup>5</sup> Radio program in the Albanian language is being prepared by editorial team employing 8 people: 7 journalists, out of which two are correspondents, and an anchor. They all have university degree, except one with a vocational training degree.

independent from government bodies and all legal and natural persons engaged in activities of production, broadcasting, and transmitting of radio and TV programs, or related activities, plays an important role in the implementation of the audio-visual policy.

47. During the application of media laws, the practice has shown that certain legal solutions are inadequate. The application of the Law on Public Broadcasting Services Radio Montenegro and TV Montenegro has shown that the current management model of these services is uneconomical and inefficient, and that collection of broadcasting fee hasn't produced expected results. Through planned changes of media laws, these issues should be regulated in a comprehensive manner in order to enable their efficient enforcement for the benefit of the public service and the citizens. In the area of electronic media in Montenegro, we have government run broadcasting service, local broadcasting services, and commercial broadcasting services. Besides national and local public broadcasting services, in Montenegro we have 36 commercial radio broadcasting services and 15 TV broadcasting services. The number of printed media is also growing.

48. In the period since restoration of independence a certain number of cases have been registered in Montenegro in which journalists received threats or were even physically assaulted. In all of the cases, the authorities took all legally prescribed measures in order to determine facts and bring the offenders to justice. On the same issue, competent bodies have replied to concrete inquiries of the Special United Nations Rapporteur for Freedom of Opinion and Expression, and sent an open invitation to the Special United Nations Rapporteur to visit Montenegro and make his own assessment.

49. Montenegro also established communication with the Special United Nations Rapporteur for Freedom of Opinion and Expression in regard of a case against one journalist for slander.

### **G. Special minority rights**

50. Besides the fundamental human rights and freedoms, in order to protect the overall national identity, Montenegrin Constitution and laws provide for an additional set of rights to minorities. The Constitution guarantees to the members of minority peoples and other national minority communities, rights and freedoms, which they can exercise individually or together with others, and these are the following rights: the right to expression; the right to preserving, developing, and publicly expressing their national, ethnic, cultural, and religious characteristics; the right to selection, usage and public demonstration of their national symbols and the right to mark their national holidays; the right to use their own language and orthography in private, public and official use; the right to education in their own language in the state institutions and the right to having curricula also cover the history and culture of minority peoples and other national minority communities; in areas where minorities represent significant portion of the local population, government and judicial bodies run the proceedings in the language of minority peoples and other national minority communities; the right to establish educational, cultural, and religious associations with the financial support of the government; the right to write and use their personal names in their own language and orthography in the official documents; in areas where minorities represent significant portion of the local population, they have the right to have traditional local names of streets, settlements, as well as topography signs written in the language of minority peoples and other national minority communities, too; the right to be authentically represented in the Parliament and local councils where minorities make significant portion of the population, in accordance with the principle of affirmative action; the right to proportional representation in public services, government bodies, and local council bodies; the right to be informed in their own language; the right to establish and maintain contacts with citizens and

associations outside of Montenegro with whom they share their ethnic origin, cultural-historic heritage, as well as religious beliefs and they also have the right to establish councils for protection and promotion of special rights. The Constitution prohibits forced assimilation of minority peoples and other ethnic minority communities.

51. The set of minority rights and protection mechanisms, are regulated in details in the Law on Minority Rights and Freedoms. The Law deals with the issue of preservation of the ethnic identity of minorities, and enables them to have effective participation in public life. The Law is aligned with the highest international standards, which can be found in documents of the United Nations, Council of Europe, and OSCE. In order to enforce the Law, the Ministry for Protection of Human and Minority Rights, as the competent body, has adopted Rules and Instructions for elections of the minority councils. So far, Croatian, Bosnian, Muslim, Roma, and Albanian minority councils have been elected. In line with the Law, the Minority Policy Strategy has been adopted as well.

52. The institutional framework for protection of rights and promotion of minorities' position encompasses the Ministry for Protection of Human and Minority Rights, Parliamentary Committee for Human Rights and Freedoms, and Centre for preserving and promoting minority cultures. The Ombudsman is also operating in Montenegro as an independent and autonomous institution. Apart from these institutions, the Parliament has passed a resolution on establishment of a Minority Fund, which is carrying out activities important for preserving and promoting specific ethnic features of minorities in areas of ethnic, cultural, language, and religious identity. Under the resolution funds allocated for these should amount to at least 0.15 per cent of the budget (abt. 1.000.000 €).

#### **H. Roma community in Montenegro**

53. It is difficult to determine the exact number of permanently settled Roma population in Montenegro. According to the official 2003 census, there are 2,875 members of Roma community living in Montenegro. According to the NGO estimates there are some 20,000 Roma, Ashkalia, and Egyptians in Montenegro, out of which more than 5,000 are refugees and displaced persons.

54. In order to improve the overall situation of Roma and their inclusion into the society, in 2005, the Government has adopted the Action Plan for Implementation of the project "Roma Inclusion Decade 2005-2015", and in 2007, the Strategy for Improving the Position of Roma. Besides regular funds for 2008, intended for improving the position of Roma, the Government has allocated additional €400,000 and set up, for the purpose of monitoring the implementation of the Strategy, an inter-departmental Commission including participation of representatives of the Roma NGO sector.

55. Ministry of Education and Science, within the reform of the educational system, has paid special attention to integration of Roma into the formal educational system, aiming to provide quality primary education for this population and thus help their overall integration into the society. Through implementation of systemic measures, the Ministry has significantly improved the quality and integration of RAE (Roma, Ashkalia, and Egyptian) children into the regular educational system. Although there are no reliable data on number of RAE pupils within the educational system, surveys conducted by the Ministry are showing that number of RAE students is constantly rising. Ministry of Education and Science is stimulating enrolment of Roma children in schools by providing them with free textbooks and pencils, and also through cooperation with NGOs engaged in inclusion of RAE population. During 2007, the Ministry has

supported publication of a school paper “The Schoolboy” and “The Schoolgirl” in the Roma language.

56. Roma population in Montenegro is being informed through programs of the public broadcasting service. The programs are dedicated to integration of Roma population in Montenegro and are prepared by ethnic Roma journalists, who have completed the Media Institute journalist school. One of the key problems in the implementation of aforementioned program is shortage of Roma people with a university degree. Additional contribution to information for the Roma people is provided through regular broadcasting of a radio show in Roma language “Roma speaks - O Roma vakeren”, which is prepared and implemented by the NGO Democratic Roma Centre, with the support of the Ministry of Culture, Sports, and Media, as well as international organizations. The Roma population is being informed by public broadcasting service - TV Montenegro, through a documentary TV program called “The voice of Roma”.

### **I. Labour rights**

57. The Constitution stipulates that everybody has the right to work, along with the right to freely choose their profession and employment and the right to fair and human working conditions as well as protection during the unemployment period. The employed have the right to receive adequate earnings, limited working hours, paid vacation, and protection at work. Youth, women, and disabled persons, enjoy special protection at work. The Constitution bans forced labour. The Constitution provides for the establishment of a three-party Social Council with the primary task of initiating a social dialogue and strengthening social cohesion. Establishment of the Social Council is regulated by the Law on Social Council, which is aligned with EU and ILO regulations.

58. Reform of the Labour Law has started in 2003 with harmonization with ILO standards in areas of freedoms of association in trade unions and employers’ organizations, as well as establishing the higher level of protection for disabled workers if they became redundant during the privatization period. As the reform progressed, it became clear that certain legal institutes needed revising, such as prohibition of discrimination, equal treatment of men and women when employing, as well as choice of profession, protection of employees when a new employer is taking over the company, protection of employees’ receivables in case of bankruptcy or liquidation, defining the responsibility for breach of work duties, etc. Adopted Labour Law which was drafted in cooperation with ILO representatives is aligned with ratified conventions and EU regulations.

59. In order to introduce alternative dispute resolution the Law on Peaceful Resolution of Labour Disputes has been adopted in 2007. The Law anticipates establishment of an Agency for Peaceful Resolution of Labour Disputes.

60. The new Law on Employment and Work of Foreign Nationals, which will enter into force on 1 January 2009, is based on the ILO standards. With the implementation of this Law we will ensure monitoring of the migration policy, setting up of an annual quota of work permits for foreigners in specific professions, ensure equality of foreigners-holders of working permits with Montenegrin citizens in terms of employment, and we will be able to take measures for efficient elimination of illegal employment of foreigners through enforcement of adequate penal policy.

61. The rights originating from pension and disability insurance are regulated by the Law on Pension and Disability Insurance and the Law on Voluntary Pension Funds. In order to eliminate

numerous shortcomings in the functioning of the current pension and disability insurance systems, the Government opted for a multi-pillar pension system, which anticipates the reform of the current system that is based on inter-generation solidarity (I pillar), introduction of mandatory individual capital savings (II pillar), and introduction of voluntary individual capital savings (III pillar). The Law on Pension and Disability Insurance defines the right to disability and family pensions. The institutional framework for exercising the rights in areas of pension and disability insurance comprises the Ministry of Health, Labour, and Social Welfare and the Pension and Disability Insurance Fund.

### **J. Healthcare rights**

62. According to the Constitution, everybody has the right to healthcare, and the healthcare costs for children, pregnant women, elderly, and disabled persons are covered from public funds, unless their healthcare costs are covered on some other grounds. General goals in respect to development of healthcare in Montenegro are defined by the Montenegrin Healthcare Development Strategy and the Master Plan for Development of Healthcare in Montenegro 2005 – 2010. The rights in area of healthcare are defined by the Healthcare Law, which is defining institutional conditions for the reform of the healthcare system, primarily of the primary healthcare. The basic concept of the Law is defined by the healthcare policy and the healthcare development vision through: development of the public health system, providing primary healthcare to the entire population; increasing accessibility of the healthcare for population through introduction of the chosen team or chosen doctor (family doctor) system within primary healthcare; reorganization and empowerment of secondary and tertiary healthcare levels, and through development of special strategies for improvement of health and health conditions of vulnerable categories of population. The Healthcare Law lists medical measures and healthcare services that are financed from the mandatory healthcare insurance. The Law on Protection and Rights of Mentally Ill Persons was adopted in line with recommendations and Declaration of the World Health Organization.

63. Ministry of Health, Labour, and Social Welfare is the competent government body in charge of developing healthcare policy and ensuring the implementation of healthcare rights. Besides the Ministry, the institutional framework is also comprised of the Institute for Public Health, the Healthcare Fund, and the Agency for Medicines and Medical Devices.

### **K. The right to a healthy environment**

64. Montenegro is defined by its Constitution as an ecological state. In the preamble of the Constitution it is stressed that the state is responsible for preserving the nature, healthy environment, sustainable development, balanced development of all its parts, and establishment of social justice. Article 23 defines that everybody has the right to a healthy environment, to timely and comprehensive access to information on the state of the environment, to a say during the decision making process regarding issues that are of importance for the environment, and to legal protection of these rights.

65. The start of a changing social attitude towards the environment, space and natural assets of Montenegro, begun in 1991, with adoption of the Declaration on Ecological State, as well as the Environmental Protection Law. The Environmental Protection Law has defined basic principles, measures, and mechanisms in terms of environmental protection, monitoring of the state of the environment, responsibilities for polluting the environment, compensations for pollution of the environment, and the work of environmental inspection. The Law has defined the obligation of the existing and potential polluters to undertake all measures, when conducting

business or other activities in order to ensure protection of the environment. Trying to achieve that goal, in order to prevent pollution of the environment, and to implement the principle “polluter pays”, mandatory “eco tax” was introduced proportionally to the quantity of discharged pollutants, as well as an obligation to pay fines for violation of set norms. In addition to this, in order to ensure preventive approach in protection of the environment, this Law prescribes the obligation to draft and adopt fundamental documents for protection of the environment. In order to be able to conduct a sustained monitoring of qualitative and quantitative changes of the environment, the Law prescribes the obligation to establish a Cadastre of Polluters.

66. Over the past period, a number of laws and strategic documents have been adopted in areas of environmental impact assessment, strategic environmental impact assessment, and quality of air, waste management, and water management, control of industrial pollution, chemicals, and noise. Process for ratification of multilateral environmental agreements has been accelerated. The most important laws and strategic documents in this area are: Strategic Environmental Impact Assessment Law, Environmental Impact Assessment Law, Waste Management Law, Air Quality Law, and Law on Ratification of the Kyoto Protocol, National Strategy for Sustainable Development, and National Waste Management Policy.

67. In the area of environment, Montenegro is facing numerous obligations, but at the same time major limitations in terms of institutional and human resources, and financial capacities, at all levels. Having this in mind, the new Law on Environment has been adopted in July 2008, providing for a legal basis for establishment of Environmental Protection Agency and Environmental Fund (Eco Fund). The Law on Environment contains special chapters on responsibility of those who damage the environment, and on responsibilities for the environment in terms of preventing and eliminating the consequences of the damage. According to this Law, the report on the state of the environment will be done in line with standard methodology of the European Environmental Agency.

68. Government body in charge of monitoring the state of the environment and enforcing measures to protect the environment is the Ministry of Tourism and Environment. The Ministry is responsible for issuing regulations in the area of industrial pollution, risk and accidents control, as well as for inspection activities through the work of the Ecological Inspection. The Office for Sustainable Development and the Centre for Eco-toxicological Research play an important role in the implementation of the Government’s environmental protection policy. Hydro-meteorological Agency and Centre for Eco-toxicological Research are in charge of monitoring the air quality.

#### **L. Cooperation with the Non-Governmental Organization sector**

69. Basic normative framework for activities of NGOs is defined by the Constitution, which guarantees freedom of political, trade union, and other associations and activities, without prior approval, provided that these associations are registered before the competent body. The NGO Law regulates conditions, procedure, and forms of citizen associations. There are 4,200 registered NGOs in Montenegro<sup>6</sup>.

70. Certain Laws define participation of NGOs in working bodies and other bodies of competent institutions: the Broadcasting Law stipulates that NGOs and citizen associations engaged in the area of the media, and also those involved in area of human rights and freedoms, are eligible to propose nominees for the Broadcasting Agency Council; The Law on Public

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<sup>6</sup>With tendency of growth; this number varies daily.

Broadcasting Services “Radio Montenegro” and “TV Montenegro,” stipulates that NGOs engaged in area of human rights, sports, tourism and ecology, rights of children, youth, and family, area of education, healthcare and social protection, as well as those involved in promoting the rights of national and ethnic groups, are eligible to propose nominees for the Public Service Council; the Healthcare Law prescribes that members of NGOs that are primarily involved in protection of the handicapped, disabled and ill persons interests, can be appointed to the Board of Directors of a government-run healthcare facility; Police Law regulates that civic control over the work of the police is exercised by a five-member Council and one of them is nominated by the NGOs involved in area of human rights. Currently, a document is being drafted that will define procedures and criteria for selection of NGOs representatives in the Government working bodies and bodies of administrative agencies. This document will regulate this issue in a uniform manner. In addition to this, NGOs were engaged in drafting or they participated in drafting a number of laws and strategic documents, among which Public Procurement Law, National Security Agency Law, Police Law, Conflict of Interests Law, Strategy for Development of a Social Welfare and Child Care System, Strategy on Integration of Disabled Persons, etc. The Government and NGOs signed cooperation agreements in the areas of Euro-Atlantic and European integrations. In line with international documents and regulations that regulate different aspects of Government-NGOs relationship, the Government of Montenegro has adopted a document “Basis for cooperation between Government and NGOs”, defining goals, principles, and forms of cooperation.

71. Financing of NGOs by the Government, under the Law on NGOs and the Gambling Law, is done by placing a public announcement, which is followed by decisions of Parliamentary and Government commissions. In addition to these two forms of financing, NGO projects are financed from special budget items of each ministry and other administrative bodies, as well as from the local councils’ budgets.

72. The Government body in charge of cooperation with NGOs is the Office for Cooperation with NGOs, which is part of the Government General Secretariat. The task of the Office is to conduct activities related to preparation of plans, programs, projects, and other activities, developing cooperation with NGOs, but not influencing their independence, and improving transparency of its own operations as well as activities of the NGOs. So far 43 contact persons are appointed within government bodies and the NGO Centre for Development of NGOs is currently implementing a project for them entitled “Capacity building for public administration employees for cooperation with NGOs”. In 2007, the Government formed a seven-member inter-departmental team in charge of drafting a Strategy for cooperation between the Government and NGOs, and a member of the NGO coalition “Results through cooperation” participated in the drafting of the Strategy. The Strategy envisages establishment of a Council for cooperation between the Government and NGOs, with participation of the NGOs in its work. This Council will be in charge of monitoring the implementation of the Strategy, and giving proposals to improve the cooperation. The adoption of this strategic document is expected in second half of 2008.

73. Socio-economic environment in Montenegro is still not favourable for activities of the NGO sector. In terms of media coverage, the situation is unsatisfactory because the work of NGOs is covered unsystematically. It is evident that both government bodies’ employees and members of NGOs do not understand the role and significance of the civil society and NGOs in the process of democratic development of the society. Government bodies’ representatives mostly think that NGOs lack expert staff, and that there is a great deal of disunity within the NGO sector. Nevertheless, they understand the importance and support further training of public servants relating to the role and importance of NGOs. According to NGOs, public administration

employees have prejudices regarding NGO activities. NGO representatives underline absence of constructive communication, despite the fact that government representatives pay lip service to the role of NGOs.

### **M. Right to education**

74. The Constitution guarantees the right to education and upbringing under equal terms, and free of charge primary education, stipulating that primary education is mandatory. To members of minorities the Constitution guarantees the right and freedom of schooling in their own language and orthography within state institutions, as well as the right to curricula comprising the history and culture of minorities. The education area is defined by laws, which relate to all levels of education and scientific research activities.

75. In order to decentralize the institutional framework and provide good quality of education and upbringing, besides the Ministry of Education and Science, which is in charge of developing comprehensive educational policies, the following institutions are also involved in this process: the Bureau for Education, in charge of general education issues; the Centre for Vocational Training, in charge of vocational training and education of adults; and the Testing Centre, in charge of external control of knowledge and implementation of international PISA testing.

76. A Comprehensive reform of the Montenegrin education system started in 2000, when the “Book of Change” was adopted. This Book contains basic goals and principles of the reform, harmonized with the Constitution and international documents such as: the Universal Declaration of Human Rights, United Nations Convention on the Rights of the Child, Convention against Discrimination in Education, Resolution on European Dimension in Education.

77. In line with the education reform principles, in 2004 a Law on Education and Upbringing of Children with Special Needs has been adopted, defining basic goals, as follows: providing equal education opportunities for all children; providing adequate conditions that enable optimal development; timely steering and inclusion into an appropriate educational program; individual approach; keeping the right balance between physical, intellectual, emotional, and social development; inclusion of parents into the processes of habilitation, rehabilitation, upbringing and education; achieving continuity of upbringing and educational programs; comprehensiveness and complexity of upbringing and education; organizing upbringing and education as close to home as possible. Implementation of the inclusive model of education has highlighted several key shortcomings, which are reflected in the following: undeveloped database and insufficient reach of children with special needs; inefficient procedure of steering children with special needs; insufficient horizontal and vertical circulation between mainstream and special schools, as well as within mainstream schools due to incompatible curricula; too many architectural barriers coupled with inadequate spatial and didactic conditions; insufficient systemic promotion of inclusive education. In order to eliminate the above shortcomings the Government has adopted an Inclusive Education Strategy, which relies on the existing, very intensive and rich experience, setting a framework that guarantees successful implementation.

### **N. Cultural rights**

78. The Constitution guarantees freedom of scientific, cultural, and artistic creation. Freedom to publish scientific and artistic works, scientific discoveries and technical inventions is also guaranteed and their authors are guaranteed moral and property rights. The state stimulates and supports the development of education, science, culture, art, sports, physical and technical culture and protects scientific, artistic, and historic values. Everyone is obligated to preserve

natural and cultural heritage, which is of common interest. The state is also obligated to protect natural and cultural heritage.

79. The Law on Culture defines the concept of culture and principles for its realization and development, sets an institutional framework for the activities in the area of culture, defines status and position of creators of culture, introduces incentives, defines mechanisms for their implementation and determines necessary financial sources. The area of cultural- artistic creativity is also defined by the Publishing Law, Cinematography Law, Law on Theatre, Law on Copyrights and Related Rights. The Law on Protection of Cultural Monuments defines the system of protection and exploitation of cultural monuments, realization of special public interest. It also defines the rights and obligations of legal and natural persons regarding protection of cultural monuments; the organizational structure of agencies in charge of protecting the cultural monuments; the methodology of acquiring funds for financing the aforementioned agencies and the protection measures.

#### **IV. COMMITMENT OF MONTENEGRO TO PROMOTING AND PROTECTING HUMAN RIGHTS**

80. Montenegro is committed to the principles of the United Nations Council for Human Rights, primarily the principles of universality, indivisibility, objectivity, and supports its activities as well as constructive international dialogue and cooperation for promotion and protection of human rights and freedoms. Applying for membership in the Council for Human Rights (2012-2015) Montenegro committed itself to making an active contribution to universal fight for human rights: working with other members and stakeholders on further development of the Human Rights Council, and the mechanisms of the Universal Periodical Review, actively promoting and protecting human rights through implementation of norms on human rights and by providing adequate response to any violation of these rights, working within the Human Rights Council to enable rapid reaction in case of crisis, finding new ways to promote effective coordination and engagement of the United Nations system in the area of human rights, strengthening cooperation between member-states, United Nations agencies, and other international and regional organizations, national institutions for protection of human rights and civil society, supporting and promoting international cooperation and dialogue in order to improve numerous programs on human rights, gender equality, protection of children, democracy, good governance, and the rule of law.

81. Significant number of new Montenegrin regulations is aligned with international standards in the area of human rights and freedoms. However, there are still individual cases when human rights are breached, and these are most frequently the consequences of poor performance of some government bodies and inadequate application of regulations. Administrative bodies, most frequently, are violating human rights by not complying with legally prescribed deadlines to complete administrative procedures. This situation is partially a consequence of the complexity of procedures in certain areas, huge number of cases to be solved in a short period of time, and insufficient number of employees. In order to mitigate the consequences, which result from the neglect of this problem, but also in order to prevent future violations of citizens' rights due to long procedures, the Ombudsman has suggested to the Parliament to empower, both in terms of staff and financially, bodies and services so as to be able to solve the daily influx of cases, as well as the backlog in the most critical areas, and to conduct an analysis of cases involving "silence of the administration" and repeated return of cases for a renewed procedure.

82. In order to promote human rights and freedoms in the educational system, the Government of Montenegro has adopted a Strategy of Civic Education and Civic Upbringing in primary and secondary schools, for the period 2007-2010. The Strategy anticipates introduction of civic upbringing as a mandatory subject in higher grades of the primary schools, and civic education as elective subject in secondary schools. Designed programs provide interdisciplinary character of civic upbringing and education and cover the contents of four basic areas/dimensions of education: social (understanding relationships among people and their functioning within social groups and institutions of the society); economic (understanding living conditions, the world of labour and the way it functions); cultural (understanding common values and traditions within a group and between groups, including their historical basis); political and legal dimension (rights and duties of the person and the citizen in respect to political system and laws).

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