



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

Distr.  
GENERAL

CERD/C/MNE/1  
7 November 2008

Original: ENGLISH

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Initial periodic report of States parties due in 2007**

**Addendum**

**MONTENEGRO\* \*\***

[6 December 2007]

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\* This document contains the initial periodic report of Montenegro, due on 3 June 2007.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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## IMPLEMENTATION OF THE CONVENTION: ARTICLES 2 TO 7

### Article 2

#### Legal and administrative measures

1. According to article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Republic of Montenegro prepared an initial report on Convention implementation. The report includes the period since the year 2002, concerning the fact that the State Union of Serbia and Montenegro submitted its first State report. The report covers legal, judicial and political circumstances in the observed period.
2. At the time of writing this report, the process of adopting the new Constitution of Montenegro was in a parliamentary procedure. Concerning the terms for submitting this report, the regulations of the Constitution of the Republic of Montenegro from 1992 are used.
3. Pursuant to the Constitution of Montenegro and its legislation, articles 15, 16, 17 and 18 of the “Freedoms and Rights” section of the Constitution read that “all citizens are free and equal regardless of their of any particularities and/or other personal attributes” (art. 15); “everyone is entitled to an equal protection of his freedoms and rights in the procedure prescribed by law” (art. 17); and “everyone shall have the right to legal assistance” (art. 18). Article 16 of the Constitution provides that these rights and freedoms are inviolable. Also, according to the Constitution of the Republic of Montenegro, a special section, “Special rights of the members of national and ethnic groups”, regulates the position, rights and freedoms of national and ethnic groups. Under article 67 of the Constitution, the members of national and ethnic groups are guaranteed “protection of the national, ethnic, cultural, language and religious identity” according to the international norms for protection of human and civil rights. Persons belonging to national and ethnic groups have the right to use their languages and scripts, the right to education and the right to receive information on their languages” (art. 68) and “usage of their language in procedure before the State bodies” (art. 72). It also provided the right to “found educational, cultural and religious societies, with material support of the State” (art. 69). The Constitution also provides for them “to be proportionally represented in public services, State bodies and local self-administrations” (art. 73). In order to preserve and protect the national, ethnic, cultural, language and religious identity of minorities and to realize their rights established with the Constitution - in Montenegro is formed the Republic Council for Protection of Rights of National and Ethnic Groups. This body is chaired by the President of the Republic”. (art. 76).
4. The last census of population, households and housing was taken in the period from 1 to 15 November 2003. As opposed to the previous censuses according to which the permanent population included Montenegrin citizens temporarily working abroad with their family members (regardless of the stay period), the 2003 Census included as permanent citizens only those Montenegrin citizens who stayed less than a year abroad, pursuant to the international recommendations and the Law on the Census. Data on the national structure of the population have been collected according to the free self-declaration of the citizens. It should be kept in mind that the Census was conducted in the period of grown political tensions, while the results reflected the corresponding political situation, i.e. political self-declaration. This was clearly expressed in the comparative analyses results of the 1991 and 2003 Census.

**Table 1****Population structure according to national origins (comparative results 1991-2003)**

National origins	Number of members 1991	Percentage share 1991	Number of members 2003	Percentage share 2003
Montenegrin	380 467	61.86	267 669	43.16
Serbian	57 453	9.34	198 414	31.99
Yugoslav	26 159	4.24	1 860	0.30
Albanian	40 415	6.57	31 163	5.03
Bosniaks	-	-	48 184	7.77
Egyptian	-	-	225	0.04
Italian	58	0.01	127	0.02
Macedonian	1 072	0.17	819	0.13
Hungarian	205	0.04	362	0.06
Muslim	89 614	28.4	24 625	3.97
German	124	0.02	118	0.02
Romani	3 282	0.53	2 601	0.42
Russian	118	0.02	240	0.04
Slovenian	369	0.06	415	0.07
Croatian	6 244	1.02	6 811	1.10
Other	1 001	0.16	2 180	0.35
Not declared	943	0.15	26 906	4.34
Regional belonging	998	0.16	1 258	0.20
Unknown	6 076	0.99	6 168	0.99
Total	315 035	100 per cent	620 145	100 per cent

**Table 2****Population structure by religion**

Religion	Number of members	Percentage share
Islamic	110 034	17.74
Judaic	12	0.002
Catholic	21 972	3.54
Orthodox	460 383	74.28
Protestant	383	0.06
Pro-oriental cults	58	0.009
Other confessions	2 424	0.39
Not declared	13 867	2.24
Atheist	6 003	0.97
Unknown	5 009	0.81
Total	620 145	100 per cent

5. A special law on prohibition of discrimination does not exist in the legal system of the Republic of Montenegro. In the legal system of Montenegro, discrimination is made illegal under the criminal laws. The Criminal Code of the Republic of Montenegro was adopted in November 2003.
6. The Criminal Code contains several provisions under which is incriminated every instance of dissemination of ideas based on racial superiority or hatred, as well as of inciting racial discrimination and acts of violence motivated by racism (see the detailed review of the respective articles of the CC in the following text).
7. Beside these rights and freedoms established under the Constitution of Montenegro, language specificity and diversity of the persons belonging to national and ethnic groups (Albanian) is realized through the educational system (teaching in the Albanian language), receiving information (radio, TV broadcasts, written media), two-language signs in the municipalities where national minorities constitute the majority of the population, etc.
8. Bearing in mind that the Constitution does not strictly define the status of national and ethnic groups as a collectivity, the Ministry for human and minority rights protection initiated the creation of the law on minorities' rights and freedoms, that was adopted in 2006. In addition, every indirect and direct kind of discrimination is prohibited by this Law in any form which includes also discrimination on the basis of race, colour, gender, national belonging, social origin, birth or any status related to it, religion, political or any other persuasion, financial standing, culture, language, age or psychological and physical disability.
9. Pursuant to the Law on electing councillors and members of parliament positive discrimination was enacted for the majority of Albanian citizens. This created special polling units, reduced the elective census and prescribed that Albanian parties shall have five places in the Parliament of the Republic of Montenegro.
10. The Labour Law provides that employees are equal in their labour-related rights regardless their national belonging, race, gender, language, religion, political or other persuasion, financial standing and other personal characteristics.
11. The Law on child and social care prescribed that, in realizing the rights of social and childcare, all citizens are equal, regardless their national belonging, race, gender, language, religion, political or any other persuasion, education, social origin, financial standing and other personal characteristic.
12. The Law on Health Care provides that, in their right to obtain health protection, citizens are equal regardless their national belonging, race, gender, age, language, religion, education, social origin, financial standing, and other personal characteristics.
13. The Law on Gender Equality is one of the laws in the group of anti-discrimination laws, which provides the way of realizing the Constitutionally guaranteed right to equal rights and obligations of all citizens, regardless any personal characteristics or gender. The Law was adopted in the Parliament of the Republic of Montenegro on 24 July 2007 and issued in the *Official Gazette* of the Republic of Montenegro, No. 46/07.

14. The Law on Broadcasting, adopted in 2002 (*Official Gazette* of the Republic of Montenegro, No. 51/02), established the measures related to the protection of the minorities' rights. The Broadcasting Agency, as an independent regulatory body, gives the public authorizations in accordance with this Law. The Agency is legally separated and independent from the State bodies and all legal and physical persons who perform production and broadcasting of the radio and television programmes or objects associated to them. The founder of the Agency is the Republic. The rights of the founder, on behalf of the Republic, are in accordance with the Law.

15. According to the article 37 of the above-mentioned Law, the Agency issues the authorization for broadcasting and emission of broadcasting signals on the basis of the public tender, in accordance with this Law. In accordance with the strategy of broadcasting development, the Agency is obliged to place public tender, on the basis of the plan of allotment of broadcasting frequencies and the possibility for the issuance of new authorization for transmission of broadcasting signals. Additionally, public tender inevitably contains also non-discriminatory, objective and appreciable criteria of deciding (programme structure, percentage of the population in desired service zone for which is necessary to provide quality reception of the programme broadcast, presence of the programme contents in minorities languages, etc.).

16. The broadcasters are responsible for the content of the programme in accordance with this Law on Media. They are obliged to:

- Truthfully, completely, in a timely fashion and objectively inform the public on actual events of public interest happening within the country and abroad
- Contribute to the respect and promotion of the elementary human rights and freedoms, democratic values and institutions, pluralism of ideas; enhancement of the culture of public dialogue and respect language standards
- Respect the privacy and dignity of the citizens

17. Article 95 of the Law prescribes that, for the general interest in the sphere of information and broadcasting, the public broadcasting service shall produce programmes relevant for all segments of society, without discrimination, and regard shall be had for specific social groups such as children and youngsters, national and ethnic minorities, the handicapped, those socially and health jeopardized, etc.; it shall produce programmes that express the cultural identity of the nation, national and ethnic groups; produce programmes in the mother tongue of the national and ethnic groups in the locations where they live. According to the article 96, it is established that in programmes of the public broadcasting service, no religious propaganda is allowed.

18. The Law on Public Broadcasting Services, "Radio Montenegro" and "Television of Montenegro" (arts. 7 and 8), in accordance with the Law on Broadcasting, regulates the obligation of the Republic's public broadcasting services to produce various programme contents (informative, cultural, artistic, educational, scientific, entertaining, sports, programmes for children, etc.), to prevent undue media concentration, with an obligation to meet the public interest at the national and local level. Editorial independence and programme autonomy of State broadcaster Radio and Television of Montenegro (RTCG) is guaranteed by this Law, in terms of the time, manner and contents of its broadcasts.

19. Radio and Television of Montenegro, the two broadcasting services within RTCG, have an obligation to respect professional ethic codes and standards and programme guidelines adopted by the Council of RTCG, and similar to all other media in the country, they have an obligation to truthfully, completely, in a timely fashion and objectively inform the public on actual events of public interest happening within the country and abroad, and to contribute to the respect and promotion of elementary human rights and freedoms, democratic values and institutions, pluralism of ideas, enhancement of culture of public dialogue and respect of language standards, as well as the privacy and dignity of the citizens.

20. Local self-government units have a legal obligation to provide the funds for realizing the rights for receiving information in languages of the minorities in programs of the local broadcasting service (art. 100 of the Law).

21. According to the Law on Media of the Republic of Montenegro (adopted in 2002, and issued in the *Official Gazette* of the Republic of Montenegro, No. 51/02), with the article 23 is forbidden the publishing of information and opinions that instigate discrimination, hatred or violence against persons or a group of persons because of their belonging or not belonging to a certain race, nation, ethnic group, gender or sexual preference” (more about this Law in text of the article 5).

22. Provisions on non-discrimination are applied as well to foreigners who reside in the territory of the Republic of Montenegro. Thus, referring to health care, with the decision on conditions for realizing health care and other rights for foreigners who have permanent residence on the territory of the Republic, and who do not have health protection on any basis (*Official Gazette* of the Republic of Montenegro, No. 2/91), article 2 stipulates that foreigners who are educated or do their professional specialization in Montenegro, as well as members of their families who live with them, and foreigners who have residence but who do not have health protection on any basis and members of their families who have residence in the Republic, exercise the right to health protection and to other rights of health insurance in the same degree as members of the family of taxpayer-citizen of Montenegro.

23. On the international level, Montenegro became a State party to the Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages in 2006.

### **Bodies responsible for execution of the policy against discrimination**

24. As a product of step taken and the basic tendencies contained in the “Agreement on Minimum Principles for Democratic Infrastructure Development in Montenegro” of 1997, the next year, after extraordinary parliamentary elections and the creation of the new Government, the Ministry for Protection of the Rights of National and Ethnic Groups was established. A reorganization of the Government of Montenegro in 2006 changed the name of this Ministry to the Ministry for Human and Minority Rights Protection. This governmental department aims to protect and preserve rights of persons belonging to national and ethnic groups according to the Constitution and international documents that relate to the same issues, and in accordance with the democratic goals to which Montenegro strives.

25. Bearing in mind its programme orientation, this Ministry works on the realization of its basic strategic goals. The basis for that strategy is full integration of the minority population in social life along with further preservation and development of their national and cultural specificity, and improvement of their legal rights and freedoms. This is realized through permanent communication by the Ministry with representatives of all minorities, political entities, non-governmental organizations, various institutions and by cooperative relations with the relevant international organizations and institutions in charge of human and minority rights protection.

26. Besides the Ministry for Human and Minorities Rights Protection, in Montenegro there are established the Republic Council for Protection of Rights of National and Ethnic Groups (chaired by the President of the Republic) as well as the permanent body in the Parliament of the Republic of Montenegro, the Council for Human Rights and Freedoms.

27. Montenegro has a series of particularly active and respectable non-governmental organizations and associations that tackle the issue of minority rights protection and improvement of the status of minority communities within society.

28. The Protector of Human Rights and Freedoms in the Republic of Montenegro is an independent institution that:

- Protects human rights and freedoms guaranteed by the Constitution, Law, ratified international agreements on human rights and generally accepted international law regulations, in case of their violation by an act, action or inactivity of the State bodies, local self-administrative bodies and public services and other holders of public authorizations
- Deals with general issues of importance for the protection and improvement of human rights and freedoms and brings about cooperation with appropriate organizations that deal with human rights and freedoms
- Acts regarding legal proceeding and only in case of filibustering, obvious misuse of process power and indirect contempt
- Takes initiatives for change and amendment of certain regulations, especially for the sake of their conformity with internationally recognized standards in the sphere of human rights and freedoms
- Delivers its opinion on draft bills, other regulations and general acts if it is necessary for the protection and improvement of human rights and freedoms
- Undertakes proceedings before the Constitutional Court of the Republic of Montenegro for evaluation of the constitutionality and legitimacy of regulations and general acts that relate to the human rights and freedoms
- Delivers opinions on the protection and improvement of human rights and freedoms, and upon request the bodies that decide on those rights, regardless of the type or level of the pendent legal proceeding before that body



29. Beside these powers, the Protector has a far broader mission, such as awareness-raising about the complete and consistent provision of the principles of the rule of law and, generally, creating legitimate security of the citizens and returning their trust in the institutions of the system and the legitimate and objective performance of the State bodies before citizens realize their rights, freedoms, obligations and legal interests. Concretely, it means that the performance and action of the Protector of human rights and freedoms should contribute to a fuller realization of the constitutionally established principles of constitutionality and legitimacy, as well as the principles of justice and equity.

30. The institution of the Protector has several crucial features and characteristics. It is special body elected by the parliament, a body that in no way interferes in the existing system of controlling the work of bodies and public services, but only in supplementing it. It is neither a substitute nor competition for any existing institution. It neither takes over any of their functions nor disturbs established balance of legitimate, executive and judiciary power. It does not have the power to change or abolish the acts of the bodies, nor to punish anyone for illegal or wrong performance, but only to criticize acts and actions, i.e. procedures of the bodies, to indicate their limitations and initiate punishment of the perpetrator. The competence and action of the Protector is that of securing the performance of the duties of officials and bodies of the public administration and judicial administration in a legal, conscientious, objective, fast and quality way. Its activities are expressed in form of references, indications, opinions delivered, suggestions, initiatives, etc. of an internal and public character, which do not have obligatory legal character and legal effect, i.e. they are directed to the illegal influence on the institutions of public administration for protection of rights and freedoms of everything that involves the concept "poor performance of the public administration duties".

31. It is a State body that citizens can easily address to ask for prompt and efficient intervention, without being heavily charged and exposed to numerous technicalities. The body also takes its own initiative. The proceedings before the Protector are confidential and anyone who submits a complaint or is in any way connected with the proceedings of the Protector, cannot be held responsible or be brought into an unfavourable position.

32. The body introduces its viewpoints, standpoints and opinions to the Parliament and The wider public and thus contributes to the transparency of the public administration and other public services and bodies before the Parliament, Government, the public and the citizens.

33. The principles on which the institution of ombudsman reposes in today's modern circumstances are: constitutionality and legitimacy, independence and sovereignty, publicity of its work, availability, justice and equity, responsibility and confidentiality.

34. For the first Protector of Human Rights and Freedoms in the Republic of Montenegro, on the proposal of the authorized body, by a majority of votes of the total number of representatives, the Parliament elected Sefko Crnovrsanin, previously a judge of the Constitutional Court of the Republic of Montenegro, on 21 October 2003.

35. In accordance with actual regulatory decisions, the Protector has two deputies, one being in charge of minorities' rights protection. The mandatory period of the Protector and his deputies lasts six years, and after the mandate expiry they can be elected one more time.

### Article 3

36. The Republic of Montenegro condemns racial segregation and apartheid, which do not exist on the territory under the jurisdiction of the Republic. The practice and the policy of segregation and apartheid are strictly forbidden. Detailed information on positive standards, as well as the measures that responsible bodies take over in order to prevent and punish the acts of discrimination and segregation are included in relevant parts of this report.

### Article 4

37. The Constitution of the Republic of Montenegro guarantees freedom of the press, of expression and of opinion. Distribution of printed media and other types of media are forbidden should they incite racial, national and religious hatred.

38. Criminal law protection from discrimination and violence is provided by the judiciary of Montenegro, and under equal conditions for all citizens. Under the law of Montenegro, discrimination is forbidden under the Criminal Law, which was adopted in November 2003. It contains several provisions by which it is incriminated to disseminate the ideas based on racial superiority or hatred, as well as inciting racial discrimination and acts of violence motivated by racism. Chapter XV of the Criminal Code - Criminal Offences against Freedoms and Rights of Man and the Citizen - provides punishment for the following:

- Infringement of the right to free use of language and script (art. 158): a fine or imprisonment not exceeding one year is called for
- Infringement of equality of citizens (art. 159): imprisonment not exceeding three years. Should the act be committed by a person acting in an official capacity while performing his/her duties, s/he shall be sentenced to imprisonment of three months to five years
- Infringement of the right to expression of national or ethnic affiliation or culture (art. 160): a fine or imprisonment not exceeding one year is called for. Should the act be committed by a person acting in an official capacity during performance of his/her duties, that person shall be sentenced to imprisonment not exceeding three years
- Infringement of freedom of confession of religion and performance of religious rites (art. 161): a fine or imprisonment not exceeding two years is called for. An official who commits this act shall be sentenced to imprisonment not exceeding three years

39. Chapter XVII of the Criminal Code (Criminal Acts against Honour and Reputation, art. 199) provides punishment by a fine in the amount of 3,000 to 10,000 euros for anyone who publicly exposes a nation, national or ethnic group living in Montenegro to mockery. Chapter XXIX of the Criminal Code (Criminal Acts against the Constitution and Security of Montenegro, art. 360) provides imprisonment of 3 to 15 years for anyone who by force or threats of force attempts to change the constitutional regulation of Montenegro.

40. The legal framework for establishing and NGOs (non-governmental organizations) is extremely favourable. According to the ratings given by the international and national public, the Law on NGOs is among the most liberal in Europe. The Law makes possible to establish

two types of NGOs - associations and foundations, in an easy and short procedure. It is not possible to form organizations that instigate racial, religious or national hatred or animosity. The Ministry of Justice, in its practice, refuses to register those associations whose statutes contain discriminatory provisions related to minorities.

41. According to the Constitution of the Republic of Montenegro, it is forbidden to politically organize in State bodies. Also, professional employees in the police, judges, judges in Constitutional Court and the State Prosecutor cannot be members of political parties.

42. It is forbidden for political, union and other organizations to support actions directed towards the violent destruction of the Constitutional order or the territorial integrity of Montenegro, violation of guaranteed rights and freedoms or instigation of national, racial, religious or other kind of hatred or animosity.

### **Article 5**

43. Article 5 of the Law on Courts (*Official Gazette* of the Republic of Montenegro, No. 5/02) defines everyone's right to address a court in order to exercise his/her rights. All are equal before the courts.

44. According to the Law on General Administrative Procedure, the use of the language and alphabet of choice in the procedure is guaranteed. According to Article 15, the institution will conduct the procedure in a language defined by the Constitution as the official language in the Republic of Montenegro. Cyrillic and Latin alphabets are to be used equally. In municipalities where the majority or a significant part of the population belong to national and ethnic groups, their languages and alphabets are also in official use, in accordance with the Constitution and separate laws. Unless the procedure is not conducted on a language of a party i.e. other parties in the procedure who are Montenegrin citizens, translation/interpretation in their language shall be ensured, as well as translation of invitation letters or other written documents. The parties and others who are part of a procedure but are not Montenegrin citizens have the right to follow the procedure on their language through interpretation and the right to use their language.

45. Article 7, paragraph 2, of the Law on Criminal Proceedings (*Official Gazette* of the Republic of Montenegro, No. 71/03, 7/04 and 47/06) stipulates the official use of national languages and alphabets in places where a majority or a significant part of the population belong to national or ethnic groups. Article 8, paragraph 2, of the same Law defines the rights of parties, witnesses or other persons that participate in the procedure to use their languages. If the procedure is not conducted in a person's own language, the interpretation of the person's statements and of other persons' statements shall be ensured. Also the translation of the identification documents and other written evidence shall be provided. Article 10, paragraph 2, of this Law defines the obligation of a court to provide translation of written documents on a language of a national minority if the language is in official use in that court. Those persons may require written documents translated on a language used in a procedure.

46. Article 10 of the Law on Local Self-Governance (*Official Gazette* of the Republic of Montenegro, Nos. 45/91, 50/91, 16/95, 22/95, 23/96 and 42/03 of July 9, 2003) defines that a Municipality shall ensure conditions for protection and improving of minorities' rights, in accordance with the Constitution, international legal acts and a separate Law. Article 110 and the

sections “Plan and program for local population participation in public affairs”, and “Local population participation in decision-making” (art. 9 of the Law) provide measures for ensuring the participation of national and ethnic groups in their languages in places where these groups form a majority or a significant part of the overall population.

47. Anybody who is legally in a territory of a certain State has the right to freedom of movement and free selection of domicile. Namely, the provision of article 28 of the Constitution lays down a guarantee of freedom of movement and domicile for a citizen and a limitation only if it is necessary to conduct a criminal proceeding, prevent diseases and defend the country.

48. Voting rights are defined by the Constitution and by the Law on Election of Councilors and Members of Parliament. The citizen of Montenegro age 18 has the right to vote and to be elected. Voting right is equal and general for all, and elections with free, direct and secret voting.

### **Registration of residence and domicile and freedom of movement**

49. The existing Law on Registration of Residence and Domicile sets out the principles of the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, Protocol IV of the European Convention on the Protection of Human Rights and Fundamental Freedoms and other acts that guarantee the right to freedom of movement and choice of residence. This Law as well as the Law on Movement and Residence of Foreigners and its implementation ensures freedoms and rights and does not allow any form of discrimination or racial discrimination. Citizens of Montenegro and citizens of Serbia have the freedom of movement and residence, with the obligation to register their residence with the relevant authority when moving to a place with the intention to live there permanently and then to unregister the residence eight days after this new registration. The procedure of registration and unregistration of the residence is simple. Citizens who reside away from their residence more than 30 days are obliged to register and unregister their residence. Residence has to be registered 24 hour after their arrival and unregistered immediately before departure. A business association or an entrepreneur that provides dwelling services is obliged to register and unregister the residence of people to whom they gave services, regardless of length of residence. Records on dwellings and residences are maintained by the Ministry of Internal Affairs and Public Administration and they are used by other institutions for the implementation of obligations defined by the Law and for exercising citizens’ rights. The Proposal of the Law on Registry, Dwelling and Residence is drafted and it will create the obligation of maintaining these records electronically.

### **Representation of national and ethnic groups in the Parliament of Montenegro**

50. In the Parliament of the Republic of Montenegro out of 81 members of the Parliament there are five Albanians (6.17 per cent), eight Bosniaks (9.88 per cent), two Croats (2.47 per cent) and one Muslim (1.23 per cent). Of the five Albanians, three are representatives of national parties and two won their mandate on the DPS-SDP list. Out of eight Bosniaks, two members belong to national parties and six won their mandate on the DPS-SDP list. Both members of Parliament who represent the Croatian national minority won their mandate on the DPS-SDP list, but according to the pre-election agreement one member of Parliament is from

the Croatian National Party. The MP who is a Muslim is the member of the civil party i.e. from the DPS-SDP list. It should be mentioned that the Vice Chairman of the Parliament is the representative of Bosniak minority.

51. The Law on Minorities' Rights and Freedoms (*Official Gazette* of the Republic of Montenegro, Nos. 31/06, 51/06 and 68/07) sets out areas important for preserving identity and providing equal opportunities for minorities and that are in line with intentions set out in the text of the Framework Convention and other international documents:

- Along with support for the elimination of any form of discrimination, the rights to express, preserve, develop, transmit and publicly express national, ethnic, cultural and religious identity are given
- The possibility to establish institutions, societies, associations, and NGOs in all forms of social life as well as the possibility to have these financed by the State
- The free choice and usage of one's personal and family name, as well as registering the names on the documents in their own language and alphabet
- Free and official use of one's language and alphabet
- Access to information and media, as well as to programme contents about minorities in public services
- Education in one's own language and alphabet and adequate representation of contents in teaching plans and programmes as well as principles of affirmative action
- Use of national symbols and the celebration of significant dates and personalities from their own tradition and history
- Free association with and establishing free contacts with compatriots outside of the Montenegrin borders
- Minorities' political participation within the Parliament of the Republic of Montenegro and local community assemblies
- Proportionate representation in public services of state and local authorities
- Protection mechanisms related to the vital interests of the life of minorities both on the state and local level
- Articulating their requests through the possibility of forming their national councils with special responsibilities
- Establishing a fund for national minorities in order to get material support from the State with the aim to preserve national specificities
- Protection of the above-mentioned rights through domestic and international legislation

### **Data on refugees and internally displaced people in Montenegro**

52. According to official data, there are 26,521 internally displaced persons and refugees living in Montenegro. Out of that number, 31.9 per cent are people who are refugees from the Republic of Croatia and Bosnia and Herzegovina, while the remaining 68.1 per cent represents people from Kosovo and Metohija. This population represents 4.28 per cent of the overall Montenegrin population. In relation to the local population, internally displaced persons are relatively the same sized group in each three regions (northern, central and coastal), while refugees are more significantly present in the coastal part of the Republic. The number of displaced persons is somewhat lower in the North due to the economic situation and employability in this region. Among the displaced in Montenegro most are internally displaced persons from Kosovo (68 per cent); refugees from Bosnia and Herzegovina make up 23 per cent of the total, while 8.8 per cent are displaced persons with refugee status from Croatia.

53. The biggest number of internally displaced persons living in Montenegro were born in Kosovo (11,814 or 65.5 per cent). Then follow persons born in Montenegro - 3,763 or 20.9 per cent, out of whom 1,483 are internally displaced persons born in Montenegro after being displaced. Relatively large number of internally displaced persons are born outside the former Yugoslavia's borders (1,542) among whom 90 per cent are people of Montenegrin nationality originating from the territory of north-western Albania (the area of Vraka and Skadar). There are 579 people, or 3.26 per cent, who were born in Serbia while somewhat less than 2 per cent, or 349 persons, were born in other former Yugoslav republics. Among internally displaced persons there are Montenegrin (32.2 per cent), Serbs (25 per cent), Roma and Egyptians (17.3 and 8.7 per cent), Muslims (10.2 per cent), Albanians (2.6 per cent), Bosniaks (1.8 per cent) and others (2.1 per cent).

54. From the first day of internal displacements until today, the number of refugees has significantly varied. Rivers of refugees coming to Montenegro were caused by war in Croatia and in Bosnia and Herzegovina. Today, almost 14 years after the first refugees, there are 8,474 refugees in Montenegro, out of whom, 5,269 came from Bosnia and Herzegovina, 1,817 from Croatia and 26 persons from Slovenia. An additional 1,083 refugees were born in Montenegro, out of whom 496 (or 5.9 per cent) after the displacement. Most of the refugees in Montenegro are Serbs (79.8 per cent) and Montenegrins (8.6 per cent), Muslim (3.1 per cent), and Croats (also 3.1 per cent), while 0.6 per cent are Bosniaks, 1.8 per cent others, while the remaining 2.9 per cent do not give an identity.

### **Foreign citizens**

55. Status issues related to foreigners are arranged by:

(a) The Law on Movement and Residence of Foreigners that was published in the *Official Gazette* of SFRY No. 53/80, 30/89, 26/90 and 53/91 and in the *Official Gazette* of FRY Nos. 24/94 and 28/96. This Law, which was adopted during the time of existence of the former Yugoslavia, is outdated and leaves an open door for forbidden activities and limits the control of migration flows. These reasons, apart from others, imposed reforms in policies related to these areas which led to overtaking activities in developing a new law. The proposal of the Law on Foreigners, which is now in the Parliamentary procedure, defines the following: entry and residence of foreigners on the territory of Montenegro; visas; residence of foreigners; illegal

dwelling; forced departure of foreigners; provisions on legalization of foreigners' residence; identification documents; foreigners' residence and dwelling; movement of foreigners in uniform; surveillance; records' keeping and sanctions for violations defined by Law. For the first time in Montenegrin legislation history, this Law defines visa and migration policy as well as mechanism for building institutional bodies, capacities and frameworks in the line with European standards;

(b) Pursuant to the decision on Temporary Visa Regime (*Official Gazette* of the Republic of Montenegro, Nos. 46/06 and 34/07) and the Decision on Temporary Usage of Driving Licenses of Serbia and Montenegro (*Official Gazette* of the Republic of Montenegro, No. 46/06), citizens of the Republic of Serbia can enter to and reside in Montenegro under the same conditions as Montenegrin citizens. Citizens of Andorra, Australia, Israel, Iceland, Canada, the Republic of Korea, Liechtenstein, Monaco, Norway, New Zealand, San Marino, Singapore, the United States of America, the Swiss Confederation and representatives of Vatican can enter and reside in Montenegro 90 days and pass through the territory of Montenegro with a valid travel and driving licenses. Citizens of Austria, Belgium, Bulgaria, the Hellenic Republic, Denmark, R Estonia, Italy, R Ireland, Cyprus, Lithuania, Latvia, Luxembourg, Malta, R Hungary, Germany, R Poland, Portugal, Finland, France, the Netherlands, the Czech Republic, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland can enter and reside in Montenegro for 90 days and pass through the territory of Montenegro with valid travel and driving licenses. Citizens of Albania, the Russian Federation and t Ukraine can enter and reside in Montenegro, as tourists individually or in an organized group arrangement, with valid travel documents and driving licences without visas along with the issued tourist password. Citizens of Bosnia and Herzegovina, the Republic of Macedonia and Croatia can enter and reside in Montenegro for 90 days and pass through Montenegrin territory; with valid travel documents and with ID they can travel 30 days with the issued tourist pass. Holders of travel documents issued by the United Nations or its agencies can enter and reside in Montenegro without visa for 90 days, i.e. pass through Montenegrin territory. Members of the Sovereign Military Order for Hospitals of St. John from Jerusalem-Rhodes-Malta can enter and reside in Montenegro 90 days and pass through the territory of Montenegro with valid travel and driving licences. Holders of a special refugee document issued by a signatory State of the Convention on the Status of Refugees of 1951, travel documents and documents for stateless persons issued by a signatory State of the Convention on relating to the Status of Stateless Persons of 1954, and travel documents for foreigners with equivalent documents can enter and reside in Montenegro 90 days and pass through the territory of Montenegro, if the travel documents are introduced with a visa or with approval for residence. Based on concluded bilateral agreements on visa abolition for diplomatic and official passports, i.e. on condition of these citizens' travel, citizens of those States can enter, reside in and pass through Montenegro in accordance with the agreements. Citizens of Albania, the Russian Federation, Turkey and Ukraine who are allowed to reside in European Union member States and in other Schengen member States and the Swiss Confederation can pass through the territory of Montenegro for five days after arrival in Montenegro. Holders of a valid diplomatic, official and personal passport, accredited by the Diplomatic Protocol of the Ministry of Foreign Affairs of Serbia and Montenegro or whose passport contains a stamp of the former Ministry of Foreign Affairs of Serbia and Montenegro or a special ID can enter Montenegro without a visa. Visas issued by diplomatic or consular missions of Serbia and Montenegro are valid until the date of expiry;

(c) Guidelines for Conditions and Ways of Regulating Residence of Foreigners - Victims of Trafficking, issued by the Ministry of Internal Affairs, No. 01-011/05-48445 of 7 December 2005;

(d) The Law on Employment and Work of Foreigners (*Official Gazette* of the Republic of Montenegro, No. 11/04): this Law defines conditions under which foreign citizens or stateless persons can be employed, i.e. conclude work contracts in Montenegro. The Government, in line with migration policy, the state and movement of the labour market, issues and annual number of work permits;

(e) The Law on Weapons (*Official Gazette* of the Republic of Montenegro, No. 49/04) states that foreigners who permanently or temporarily reside in Montenegro for a period more than one year can purchase and carry weapons as well as perform business activities related to the trade and transport of weapons, under the same conditions as the citizens of Montenegro;

(f) The Law on Non-Governmental Organizations (*Official Gazette* of the Republic of Montenegro, No. 27/99 and 30/02) states that foreign NGOs may act on the territory of Montenegro under conditions set out in this Law;

(g) The Law on State Border Surveillance (*Official Gazette* of the Republic of Montenegro, No. 72/05).

56. Priorities for preventing illegal migration are ensured by adopting the Law on Police, Criminal Statute, the Law on Criminal Proceedings, the Law on Witness' Protection and the Law on State Prosecutor.

### **Readmission and deportation**

57. In efforts to solve issues related to migration flows and prevention of irregular migrations, the Ministry of Internal Affairs and Public Administration directly implements the concluded bilateral agreements on readmission, along with protocols for their implementation, with 13 countries: Germany, Switzerland, Austria, Sweden, Italy, Slovakia, Hungary, Slovenia, Croatia, and Benelux States (Belgium, the Netherlands and Luxembourg) and Bulgaria. The concluded Agreements and Protocols are in line with the Recommendation about the Model of Bilateral Agreements on Readmission between EU Member States and a Third Country of November 30, 1994 and with the Recommendation about Principles on developing Protocols for the Implementation of the Agreement on Readmission of July 24, 1995. The activities and negotiations for conclusion of the 12 new bilateral agreements and protocols on readmission and protocols for their implementation (France, the United Kingdom, Portugal, Norway, Czech Republic, Bosnia and Herzegovina, Greece, Romania, Canada, Latvia, Lithuania and Ukraine) are ongoing. On 18 September 2007 the Republic of Montenegro and the European Union signed the Agreement on Readmission and Agreement on Visa Facilitation.

58. Acquisition and termination of Montenegrin citizenship is arranged by the Law on Montenegrin Citizenship (*Official Gazette* of the Republic of Montenegro, No. 41/99). A special inter-sector working group prepared the Proposal of the Law on Montenegrin Citizenship (a new law after regaining independence) and it completely respected principles of the European Convention on Citizenship, the Recommendation about Prevention and Reduce of Statelessness



by Council of Europe, the General Declaration on Human Rights, International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Status of Stateless Persons, the Convention on the Reduction of Statelessness, the Convention on the Status of Refugees, including standards related to elimination of all forms of discrimination. The draft Law is in a parliamentary procedure.

59. The Law on Asylum (*Official Gazette* of the Republic of Montenegro, No. 45/06) that came in to force on 25 July 2006 and is being implemented from 25 January 2007) is generally in harmony with international standards, the Convention on the Status of Refugees along with the protocols, conventions and declarations on human rights, numerous recommendation by the Council of Europe Ministerial Committee and EU directives and resolutions. The Law on Asylum contains explicit provisions forbidding discrimination of any kind, especially racial, colour and gender discrimination.

### **Right to freedom of opinion and expression/information**

60. Under the right to preserve group specificities, those who belong to national minorities are guaranteed the right to complete and impartial information in their own language, including the right to express, receive, send and exchange information and ideas, as well as the right to establish their own public information centres.

61. Freedom of expression and information are basic elements of the protection of true democracy principles and respect for human rights, guaranteed by international acts - the Universal Declaration of Human Rights, and the European Convention on the Protection of Human Rights and Fundamental Freedoms adopted by Council of Europe member States. These principles are contained in the Constitution of the Republic of Montenegro.

62. The Constitution of the Republic of Montenegro guarantees media freedom and other forms of public information. Citizens have the right to express and publish their opinions through public information services. Newspaper and public information are accessible to everyone, without approval or registering at the relevant body. The right to answer and the right to correct published incorrect data or information are guaranteed, as well as the right to indemnification of damage caused by publishing incorrect data or information (art. 36). Censorship of the press is forbidden as well as of other forms of public information (art. 36). Nobody can prohibit press and public access unless a court's decision determines that by this invited people to violently destroy the legal system, the territorial integrity of Montenegro, violate guaranteed freedoms and rights or to give rise to national, racial or religious hatred and animosity.

63. The process of building an essentially new system of public information in the Republic of Montenegro began with adoption of the Law on Public Information of 1993 with which the legal basis for defining this area was created, and which was in accordance with the achieved level of democratization and directed towards reaching European principles. The Law on Public Information from 1998 made a step further - when for the first time the area of broadcast was defined.

64. Accepting the Charter on Freedom of the Media adopted in the Regional Stability Pact for South-Eastern Europe Round Table on 8 June 2000 in Solun, the State bodies of the Republic of Montenegro undertook the obligation to start reforms of media in line with international standards. Considering the role of media, especially electronic ones, in transition societies as an important mechanism of intensifying democratic processes in the Republic of Montenegro a dialogue among relevant State institutions, representatives of media community and non-government organizations in order to develop new regulations in media in line with European standards. A comprehensive goal of these reforms is to formulate and ensure everyday implementation of legal framework in accordance with article 10 of European Convention on Human Rights. A relevant State body has established an active cooperation with Council of Europe, the European Agency for Reconstruction, the European Media Institute and other international institutions that showed interest in this process in the Republic of Montenegro. To support media reforms in Montenegro, the Council of Europe and EAR adopted the Joint Initiative for Providing Assistance in August 2001 in order to implement activities which result was adoption of set of media laws: the Law on Media, the Law on Broadcasting and the Law on Broadcasting Systems of Radio and Television Montenegro. A basic starting point in the third media reform in the Republic of Montenegro has to be favouring citizens' rights rather than the media system itself, to help obviate any form of State-party monopoly in the media.

65. Under article 3 of the Law on Media (*Official Gazette* of the Republic of Montenegro, No. 51/02), the State shall provide a part of the financial resources needed to guarantee citizens' rights to be informed without discrimination as set out in the Constitution. In order to exercise these rights, the State shall direct resources for programmes in Albanian and other languages.

66. In July 2005, the Government of Montenegro submitted the draft Law on Free Access to Information to the Parliament of the Republic of Montenegro for adoption. The Law was adopted in November 2005.

67. A constitutional basis for adoption of the Law on Free Access to Information was resolutions of the General Assembly, article 19 of the Universal Declaration on Human Rights, article 10 of the European Convention on Protection of Human Rights and Fundamental Freedom, article 19 of the International Covenant on Civil and Political Rights and article 12, paragraph 1, of the Constitution of the Republic of Montenegro.

68. According to the records, there are 16 private press media in the Albanian language, one commercial radio station, two private TV stations and one press agency. Among the Radio Television Montenegro, Radio Bar and Radio Ulcinj programmes there are broadcasts in the Albanian language. By a decision of Parliament, the daily newspaper *Pobjeda* is also publishing the newspaper *Koha Javore*. It is in the Albanian language and partly financed by the State from the RM budget.

### **Rights at work**

69. The obligation to respect non-discrimination is foreseen in article 15 of the Constitution of the Republic of Montenegro, with which it is stated that all the citizens shall be free and equal regardless of their specificities and features. This is based on the Constitution and Laws of the Republic of Montenegro and the social principles that each citizen shall have the right to work, to freely choose occupation and employment, to have humane conditions at work and protection

during an unemployment period. The Law on Work states that all employees shall be equal regardless of national origin, race, gender, language, religion, political or any other belief, education, social origin or material state. An employer shall be obliged to respect the rights and equality of an employee as well as his/her privacy and dignity.

70. According to the provision in article 40 of the Constitution of the Republic of Montenegro, citizens are guaranteed the freedom to join union associations without approval, by registering at the relevant institution. The purpose of establishing union is rights protection and betterment of the professional and economic benefits of members. Union freedom and protection of their rights to associations and collective negotiations, as set out in the decrees on relations at works, respecting principles from the ILO Conventions (Convention on Freedom of Association and Protection of the Right to Organize, No. 87 and Convention on Workers' Rights to Organize and Bargain Collectively, No. 98).

71. As a protection from discrimination, the Constitution of the Republic of Montenegro, in its article 52, guarantees that everyone shall have the right to work, to freely choose occupation and employment, to have human conditions at work and protection during an unemployment period.

72. The rights of the unemployed are regulated in the Law on Employment adopted in Parliament of the Republic of Montenegro on 31 January 2002 and which was published in the *Official Gazette* of the Republic of Montenegro, No. 5 on 1 February 2002.

73. The provisions contained in this Law are based on international principles in the area of employment, which our country accepted by ratifying certain conventions and recommendations given by ILO, as well as by ratifying numerous provisions of the European Union. During development of the above-mentioned draft law, Convention No. 111 related to Discrimination in Employment and Occupation and Convention No. 122 on Employment Policy were highly appreciated. Article 3 of the Law anticipates that a person in search for employment shall be given equal access in exercising rights for employment regardless national belonging race, gender, language, religion, political or any other belief, education, social origin or material state.

74. This is based on the social principle in the Constitution and Laws of the Republic of Montenegro that each citizen shall have the right to work, to freely choose an occupation and employment. Rights and obligations at work and the means of exercising them are defined in the Law on Work. It states that employees shall be equal, regardless national origin, race, gender, language, religion, political or any other belief, education, social origin or material state. An employer shall be obliged to respect the rights and equality of an employee as well as his/her privacy and dignity.

75. At the beginning of 2005 the Government adopted the Action Plan in the regional project "Decade of Roma Inclusion: 2005-2015", which defined goals and tasks for the forthcoming 10-year period in the following areas: education, housing, health-care protection and employment of the Roma population in Montenegro.

76. As part of the programme “Active Employment Policy”, the Employment Agency of the Republic of Montenegro has had numerous activities that cover persons belonging to the Roma, Ashkelia and Egyptians (RAE), and all related to the project “Decade of Roma Inclusion: 2005-2015”. The Agency provides identification and registration of the RAE population so that they are included in special programmes that will be specially created for them. At the same time, at the four seminars held in May and June 2004, the Agency’s advisers responsible for record keeping and mediation were familiarized with the project and were explained the significance of identification and separation based on national belonging criteria in the case of RAE population and the purpose of more efforts with the unemployed.

77. During 2005, through regular interviews with the unemployed, the interest of the RAE population related to inclusion in ongoing programmes and the programmes that would be prepared, was considered. Their interests were recorded in the applications in unemployed persons’ personal files and other documents so that, later, when the programmes were created, it would be possible to find adequate persons easily and fast.

78. Roma people live mainly in social isolation, and information regarding changes in the labour market, programmes on employment and ongoing projects simply do not get to them. For all the planned activities, it is necessary to motivate the unemployed through the activities they find appealing enough, using channels of communication that will bring to them the information they need. Hence, methods and channels to inform and motivate other unemployed persons can be utilized (i.e. the TV show ”Get yourself started”, informative interviews that are mandatory for all the newly applied unemployed persons, informative-motivation seminars for the unemployed, newspaper advertising, notice boards in the Employment Agency and labour offices, etc.), as well as new methods and media adapted for the population for whom the information is intended (lectures in Roma settlements, billboards in visible places, leaflets, etc.).

79. When we speak about stimulating employment measures, one of the most efficient programmes the Agency implements is allocation of self-employment loans. The loans allocation to Roma nationals is rendered difficult by the lack of guarantees for reimbursement, such as real estate mortgages (which usually they do not have).

80. Training for the labour market, which is carried out as part of the preparation for employment programme, is mostly directed at individuals with, at a minimum, high school certificates. The education for some trade in demand in the labour market (for example, in the construction industry or providing personal services) can be organized for persons without a minimum education as well, but in that case the preparation is more complex and more expensive. The Agency has the infrastructure, programmes and human resources, as well as the legal obligation to work on the preparation for employment of all individuals on its rolls, but the funds for programme implementation often represent an obstacle. Social partnership is the principle that without which none of the activities aimed at enhancing Roma population employment could be organized. The “Decade” Action plan introduces various partners in all activities, both at the local and national level.

81. The majority of Roma people belong to the category of non-qualified and low-qualified labourers, who are the most frequent among the registered unemployed and they are the ones who wait the longest time for employment (for several years). As such, they fall into the category of hard-to-employ persons. According to the Agency’s Work Doctrine, the persons

falling into the category of harder and hard-to-employ have serious obstacles getting employment, hence no mediation is done until the problems are resolved. For resolving their problems it is necessary to draft a special long-term programme, whether at the Agency's offices or in the cooperation with other institutes. Programmes can be directed at resolving various problems: addiction, acquisition of the knowledge and skills one lacks, change of behaviour, personality features and attitudes that require a longer-term approach, etc.). In June 2004 a team was formed in the Agency with the goal of offering the organization project and work content for the category of hard-to-employ persons among the unemployed. Different work programmes with the Roma population (because they cannot all be put into the same group according to their degree of employability) will be integral part of the project. The draft of the project ought to define the following activities: identification of hard-to-employ persons who are on the list of the Agency (Roma will be especially focused on, due to the uniqueness of working with them and special programmes foreseen for them); establishing the organization and technology for professional treatment of these persons; education of coworkers (both in and out of the Agency) to work with these categories; drafting and implementation programmes for the professional treatment of these persons; support in preparing specialized agencies for work with hard-to-employ persons; defining legislative as the basis for working with these individuals; establishing partnership cooperation with relevant institutions; providing funds to finance the programme.

82. The discrimination phenomenon is often present in Roma employment. Research results show that discrimination is more common in the approach to employment than in the workplace. For that reason, in order to influence employability growth, it is also necessary to direct a significant part of activities at motivating employers to hire this population. It is necessary to foresee a set of various measures to stimulate the employers: public opinion surveys, round-table discussions, TV shows, newspaper articles, brochures and subventions for employing RAE (tax exemptions, etc.). In order to be able to implement the working methods foreseen, all the associates of the Agency who deal directly with consulting and providing guidelines to the unemployed, were obliged to go through intense training in the last four to five years. The programme's efficiency with the unemployed, according to the new concept, to a great extent relied on high awareness by expert workers and on their ability to direct their clients in a clear, careful and acceptable manner so they can adopt new knowledge and forms of behaviour, which could help them in resolving their problems - finding an appropriate employment. In that sense, during the training, the accent is placed on a change in the awareness of the unemployed, to realize the need for lifelong learning, acquiring social skills, raising motivation and making them capable for resolving problems. One of the basic principles adopted by the new Agency's doctrine, the principle of expert treatment of individual needs, stipulates that a more intense form of assistance is provided for persons who have been waiting to get a job and who have more trouble getting one. Long-term forms of assistance call for even longer and more expensive training of human resources intended to implement the programmes. The project of organizing work with hard-to-employ persons is implemented in phases and is being developed in several directions: developing ideas and putting new service-providing technology into practice, training the personnel for new work forms, methods and contents, providing space and technical equipment for applying new forms of work, providing legislative/normative and computer support for the implementation of new forms of work, etc.

### **Right to participate under equal conditions in cultural activities**

83. By the decree of the Government of the Republic of Montenegro, in 2001 the Centre for the Preservation and Development of the Culture of National and Ethnic Groups was established, as a nucleus of cultural activities for all national minorities in Montenegro.

84. Besides literary periodicals and radio/TV broadcasts in the Albanian language, for the purpose of further promotion of Albanian culture and art in Montenegro, the Ministry of Culture of the Republic of Montenegro has signed the Protocol on cooperation with the Ministry of Culture of the Republic of Albania, followed by protocols between respective institutions: the Academies of Science and Arts, universities and State archives. There are several non-governmental organizations which are active in the field of culture of minority nationals.

85. The Government of the Republic of Montenegro, through the Ministry for Human and Minority Rights Protection, financially support the associations and organizations of minorities in Montenegro as well as the projects regarding preservation of their cultural heritage and identity. This financial aid is also offered in publishing activities of minorities' members as well as in the field of informing.

86. Ministry for Human and Minority Rights Protection organizes an event named "Cultural days of Montenegrin Minorities", during which the representatives of minorities express their achievements in fine arts, literature, music and folklore creativity. For the purpose of developing interethnic dialogue and understanding, the regular activity of the Ministry for Human and Minority Rights includes the organization of round tables and seminars, raising the level of information, involvement in the drafting of new education plans and programmes for different levels of education, cooperation with the neighbouring, so-called "mother countries", of the minorities in Montenegro, etc.

### **Right to education**

87. The Constitution and the law provide for free and compulsory primary education for children from 7 to 15 years of age, regardless of their gender, race, religion or other particularities. There are 20 pre-primary institutions in Montenegro (in all municipalities except in Zabljak).

88. According to the Law on Higher Education, higher education is accessible to all persons. Article 7 guarantees that, in exercising the right to higher education, no discrimination is allowed on any grounds, such as sex, race, marital status, colour of skin, language, religion, political or other beliefs, national, ethnic or other origins, national community, material status, disability or similar grounds, position or circumstances.

89. Article 2 of the Law on General Education aims to provide the possibility for complete individual development regardless of sex, age, social and cultural background, national and religious affiliation or physical and psychological state; to develop the awareness and abilities needed for the maintenance and the improvement of human rights, a legal State, the natural and social environment, multi-ethnicity and diversity; to develop awareness affiliation to the Republic of Montenegro, its culture, tradition and history.

90. According to the Law on Primary Education, article 2, the aims of primary education are:
- Education for respect for national, historical and cultural values, as well as for recognizing the cultural and other characteristics of other nations
  - Education for mutual tolerance, respect for differences, cooperation with others, respect for human rights and fundamental freedoms, and along with that the development of the abilities for life within a democratic society
  - According to the Law on General Education, article 11, teaching in the institutions shall be accomplished in the language that is in official use in the Republic
  - In the municipalities within which the majority, or a significant part of population, is composed of the members of national and ethnic groups, teaching shall be accomplished in the language of those national or ethnic groups. If teaching is carried out in the language of national or ethnic groups, the language that is in official use shall be a compulsory subject
  - School must provide a student attending the lessons in non-mother tongue language with adequate help in learning the language in which the teaching is carried out
  - According to the Law on General Education, article 111 on cessation of employment, in addition to the conditions provided for by the Labour Law, the employment of a teacher who causes national or religious intolerance shall be terminated
  - According to the Law on General Education, article 136 on providing of funds, the Republic's budget shall provide funds for public institutions included in the network of institutions for the subvention of the textbooks of small circulation, as well as those for the education of national or ethnical groups
  - According to the Law on Vocational Education, article 39, students may have 32 lessons at most during one week, in line with the educational curriculum. As an exception to paragraph 1 of this article, in schools in which the teaching is carried out in the language of national or ethnic groups, students may have up to 34 lessons at most

91. The First Meeting of the National Forum for Education for All (EFA) organized by the Montenegrin Ministry of Education and Science of the Republic of Montenegro took place in September 2004. The participants were: members of the EFA National Forum; representatives of international associations and of UNICEF, FOSI ROM, EAR, the United Nations Development Programme, ERI SSE, Save the Children; representatives of the diplomatic corps in Montenegro (Greece, Germany, Italy, Russian Federation, United States of America, France, Slovenia), ministers of neighbouring countries and the region (Macedonia, Albania, Serbia, Bosnia and Herzegovina, Slovenia, Croatia, Bulgaria, Kosovo); UNMIK representatives; VET, PRSP, NGO representatives for Roma education; representatives of Montenegrin ministries and State institutions; media representatives. Goals of the project "Education for All" include: expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children; ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and

complete free and compulsory primary education of good quality; ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life-skills programmes; achieving a 50 per cent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for adults; eliminating gender disparities in primary and secondary education by 2015, with a focus on ensuring girls' full and equal access to and achievement in basic education of good quality; improving all aspects of the quality of education and ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, mathematics and essential life skills.

92. In those parts of Montenegro where a majority of the population is Albanian, there is the possibility for children and youth to attend schools in their own language; there are five primary schools teaching in the Albanian language, seven schools teaching in both Serbian and Albanian, and three secondary schools teaching in Albanian and Serbian. Official documents of these schools are written in both languages. Textbooks are being also provided in the Albanian language through the Institute for Textbooks Podgorica or by procurement from the Serbian Institute for Textbooks and Teaching Aid.

93. The coverage rate for children in elementary education is high, and represents 99 per cent of that group. When we speak about the coverage and education of children belonging to a marginalized group, primarily the Roma, according to published research and available data, it is certain that there are important problems in their education. First of all, this is due to their leaving regular education and elementary school in senior grades. The Ministry of Education and Science has carried out several activities in order to motivate Roma children to get an education and to complete their elementary education. The Ministry promoted the campaign in schools under the name "All of Us in School Together", with the goal being to collect used schoolbooks, clothes and footwear for Romani pupils. Within the implementation of the project "Roma Education Initiative" in primary schools that consist of almost two thirds of the Roma population in Montenegro, Roma assistants have been engaged to assist building teaching capacities in communication with Roma children and their families in order for them to attend the curriculum and successfully continue their education. Special seminars on civil tolerance and particularities that affirm values of multi-ethnic living have been organized for teachers and other professional staff in schools where there are Roma children.

94. For children belonging to the Roma population there are no special classes (except in one school in the capital, Podgorica), nor teaching in the Romani language, but they are rather incorporated in the classes of regular schools, considering that each school is available to them as for all other children. The obvious thing is that the number of these children goes down in the senior grades. So if we have, for example, two classes in the first grade then in the second we have only one, the seventh or eighth grade is reached by only two or three pupils. The Ministry of Education and Science helped in financing the first Romani primer that was printed by a Roma NGO. The Government of the Republic of Montenegro adopted in 2004 the Action plan "Decade of Roma Inclusion: 2005-2015" that included the area of Roma education, as well as the National Action Plan for Children. The Roma population has been treated as a particularly vulnerable category in several areas, including education.



95. Pre-primary education of minority groups is carried out in accordance with the global strategy of education in the Republic of Montenegro that includes the full integration of all children. The issue of attendants of pre-school institutions of minority groups is being resolved as a part of global policy. However, in defining infrastructure priorities to be presented to the international donor community, it had been planned to construct pre-school buildings in the territory where a significant part of the pre-school population is made up of children belonging to the Roma population.

96. For the school year 2006/07, the Ministry of Education and Science of the Republic of Montenegro provided the pupils of Roma nationality entering Grade one, with textbooks free of charge, as it was a practice in previous years, regardless if they attend classes according to the new or old Education Programme. The textbooks free of charge will be provided for all pupils of Roma nationality attending the classes in the primary school "Bozidar Vukovic Podgoricanin" in Podgorica, taking into account that this school is attended by approximately 50 per cent of the total Roma population being educated in the schools of Montenegro. In cooperation with the Roma NGO "Pocetak" (Beginning), the Ministry of Education and Science has collected the data on Roma pupils and will distribute textbooks to the school's libraries for those Roma pupils as well as for pupils in reformed classes whose parents receive social welfare.

97. All children who meet the requirements, regardless of their national or religious affiliation, have the right to enroll in secondary school under equal conditions. All enjoy the equal right to education and there are no discriminatory measures.

98. Albanian children are taught both in the Albanian and Serbian languages in the secondary schools in Tuzi, Plav and Ulcinj, and they are provided with appropriate textbooks and other literature.

99. There is no discrimination in the approach of the higher education; it is available to all individuals regardless of sex, national origin, religion and the socio-economic status of the family.

100. The Autonomous Study Programme for Teacher Training in the Albanian Language was established in Montenegro in October 2004, and has 45 enrolled students. These studies have been launched through the joint efforts of the Ministry for Human and Minority Rights Protection, the Ministry of Education and Science, the Municipality of Podgorica and the University of Montenegro.

101. Child refugees and/or displaced persons enjoy all rights to education in the same manner as resident children. The Government of Montenegro adopted the National Strategy for the Permanent Resolution of the Problem of Refugees and Displaced Persons in Montenegro, which include all essential issues regarding the position of that category of persons (more detailed data on position of refugees in Montenegro is given in the corresponding points of this report).

**Religious freedom**

102. The right to freedom of religion, as one of the basic human rights, is regulated by international conventions, the Constitution of the Republic of Montenegro, the Law on the Legal Position of the Religious Communities and the Law on Celebration of Religious Holidays.

103. Freedom of opinion and public expression, freedom of belief, public or private profession of religion and freedom to express national affiliation, culture and the freedom to use one's own language and alphabet shall be guaranteed by article 34, paragraph 2 of the Constitution of the Republic of Montenegro. No person shall be obliged to declare his opinion, belief or national affiliation.

104. Montenegro is a multi-ethnic and multiconfessional State. The largest population is Orthodox (about 74.28 per cent), then Islamic (about 17.74 per cent), Catholics (about 3.54 per cent) and others.

105. Free expression of religious beliefs is granted by the legal decisions that allow believers to be absent from work during the major religious holidays. The Law on the Celebration of Religious Holidays anticipates the right to paid days off during the periods of religious holidays. Members of the Orthodox confession are allowed paid absence on the following days: the day before Christmas Day, Christmas Day (two days), Good Friday, Easter Day (the second day), and Patron Saint Day. Members of the Catholic faith are allowed paid absence on the following days: the day before Christmas Day (one day), Christmas (two days), Good Friday, Easter Day (the second day) and All Saints Day. Muslims are allowed paid absence on the following days: Ramadan Bajram (three days) and Curban Bajram (three days); Jews are allowed paid absence on the following days: Passover (two days) and Yom Kippur (two days). This law determines the responsibility for an offence that shall be fined when any responsible person in a firm, an institution, any other legal entity, State body or entrepreneur does not provide the paid absence for an employee during the period of religious holidays.

106. Pursuant to the Law on the Legal Status of Religious Communities, establishing religious institutions and organizations, i.e. religious communities is free, with the obligation of reporting its establishment or cessation to a relevant authority responsible for internal affairs at a municipal territory, where the newly founded or disestablished religious community's seat is. The Law explicitly forbids misuse of religious communities and their institutions as well as of religious activities, i.e. use of religious feelings for political purposes. Also, the Law forbids hindering or disturbing religious rituals and religious affairs, i.e. the expression of religious feelings. For disrespect of these provisions of the Law, as well as of others, punishment measures are anticipated. Given the guaranteed freedom of religion, it is forbidden to forcibly make somebody a member of a confession or to make somebody participate in rituals.

107. Persons placed in health and social-care institutions have the right to manifest her/his religion, within the limits of institutions' order. At their personal request, these persons may be visited by a clergyman to perform religious rituals.

108. Religious communities have the right to establish religious schools and dormitories at their own discretion, and there is no any obstacle to doing that. These schools are not in the national public education system.

109. Freedom of faith or belief in the Republic of Montenegro can be subject only to those limitations that are prescribed by the law that are requisite in a democratic society in the interest of public security, for the preservation of public peace, health and morals, or for the protection of rights and freedoms of others.

#### **Article 6**

110. On the occasion of the petition submitted to the Committee against Torture signed by 63 persons, all of Roma origin and nationals of the Federal Republic of Yugoslavia, i.e. the Republic of Montenegro, and due to the violation of several provisions of the Convention, because of the incident which occurred on 15 April 1995, the Committee rendered a decision on 21 November 2002 finding the Republic of Montenegro to be in violation of several provisions of the Conventions (arts. 12, 13 and 16, para. 1) and requested that authorities conduct a proper investigation into the incident, prosecute and punish those responsible, and provide redress to the victims.

111. According to the Committee's decision, the Government of the Republic of Montenegro informed the Committee against Torture of actions carried out with regard to the attitudes and recommendations stated in the decision (19 March 2003). The Government of Montenegro judged that the incident in Danilovgrad had no political background, taking into account that similar cases had not been registered in Montenegro, and that it had occurred partly as a consequence of bad living conditions, the political and safety situation at that time in Montenegro, due to the wartime environment and great political polarization. In order to implement the Committee's recommendations, the Government of the Republic of Montenegro concluded a settlement with the damaged party and paid the indemnification of damage in the amount of almost one million (985,474) euros.

112. In February 2001, the Government of the Republic of Montenegro institutionalized the position of the National Coordinator for the Fight against Trafficking in Human Beings. A strategy to fight human trafficking was adopted on 13 November 2003. Numerous legal reforms have been implemented in Montenegro in order to promote the legal framework for fighting against all forms of organized crime. By adopting the Law on State Prosecutor, Criminal Law and Criminal Procedure Act (December 2003) the reform of criminal legislation has been completed, whereby the trafficking of human beings is defined as a distinct criminal offence and the perpetrators of these offences shall be sentenced to a term between one and 10 years in prison. New legal institutions have been introduced: the Special Prosecutor for prevention of organized crime, witness protection, witness-collaborator, the special methods of collecting evidences, etc. A necessary stimulus for the further fight against human trafficking, better treatment of victims and witnesses and successful implementation of criminal procedure against offenders is elaborated in the Witness Protection Law adopted on 19 October 2004. The Law on Foreigners was adopted as well, whose provisions give foreigners who are the victims of human trafficking the possibility of privileged status, i.e. they are allowed to get a temporary or permanent residential permit in Montenegro. The office of the National Coordinator was responsible for activities leading to the opening of governmental asylum for the victims of human trafficking, which came into effect in February 2004.

**Article 7**

113. The law prohibits publishing any information and expressing opinions that incite discrimination, hatred or violence against any individual or group of persons on the basis of their affiliation or non-affiliation with any race, religion, nation, ethnic group, sex or sexual orientation. These issues have to be the grounds for an overall media transformation and an adjustment of information to European standards.

114. Measures to combating prejudices and repress discrimination, as well as to develop a multi-ethnic and multireligious society, a society of tolerance and understanding, are being implemented in various fields, such as education and culture.

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