



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Second periodic report submitted by Montenegro  
under article 40 of the Covenant, due in 2021\*\* \***

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\* The present document is being issued without formal editing.

\*\* The present document was submitted pursuant to the simplified reporting procedure. It contains the responses of the State party to the Committee's list of issues prior to reporting (CCPR/C/MNE/QPR/2).



## Introduction

1. Montenegro is a party to the Covenant on Civil and Political Rights, as well as additional protocols: Optional Protocol to the CCPR and the Second Optional, aiming at the abolition of the death.
2. In accordance with the procedures, on 14 and 15 October 2014, the Initial Report on the Implementation of the CCPR was presented to the Human Rights Committee. The initial report was prepared in 2012 in accordance with Article 40(1) of the Convention. Having considered the Initial Report, the Human Rights Committee adopted Concluding Observations with recommendations on 28 October 2014.
3. Starting in 2009, the Human Rights Committee began to apply a new simplified reporting system that includes submitting a list of questions to the Covenant state parties prior to the submission of the Report, and the replies of the States to the list of questions are considered the next report. Montenegro has accepted the said simplified procedure and, accordingly, a Periodic Report has been prepared with updated information on the implementation of all recommendations and measures taken in order to apply the Convention effectively, including breakdown of the results achieved in the protection and exercise of the rights guaranteed by the Convention.
4. The report was prepared by the Ministry of Justice in cooperation with the Parliament of Montenegro, the Ministry of Human and Minority Rights, the Ministry of Interior, the Ministry of Finance, the Ministry of Labour and Social Welfare, the Ministry of Health, the Ministry of Public Administration, the Ministry of Education, the Ministry of Culture and Media, the Police Directorate, the Supreme Court of Montenegro, the Supreme State Prosecutor Office of Montenegro, the Criminal Sanctions Execution Administration, the Centre for Training in Judiciary and State Prosecution Service, the Protector of Human Rights and Freedoms, the Anti-Corruption Agency and the Personal Data Protection Agency.

## I. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

### Reply to paragraph 1 of the list of issues prior to reporting (CCPR/C/MNE/QPR/2)

5. As its strategic commitment, Montenegro continuously improves the rule of law, law and order and the system of protection of the rights and freedoms of its citizens. To that end, it adopted a number of laws, strategic and action documents: Judicial Reform Strategy 2019–2022, National Strategy for Gender Equality 2021–2025, Strategy for the Protection of the Rights of Persons with Disabilities from Discrimination and the Promotion of Equality 2022–2027, Strategy for Social Inclusion of Roma and Egyptians 2021–2025, Strategy for Combating Trafficking in Human Beings 2019–2024, Strategy for the Exercise of the Rights of the Child 2019–2023, Strategy for Inclusive Education 2019–2025, Strategy for the Improvement of the Quality of Life of LGBTI Persons 2019–2023, Strategy for Minority Policy 2019–2023, National Employment Strategy 2021–2025, Strategy for the Development of the Social Protection System of Elderly 2018–2022, Strategy for Women Entrepreneurship 2021–2024, Strategy on Migration and Reintegration of Returnees in Montenegro 2021–2025. Within the mainstream education system and special training programmes of employees in government bodies, special attention is paid to education and training on human rights.

### Reply to paragraph 2 of the list of issues prior to reporting

6. The adoption of the Law Amending the Law on the Protector of Human Rights and Freedoms, which has been in force since 2014, has increased the level of independence and autonomy of the Protector, according to the Paris Principles. Greater transparency was prescribed in the process of appointing the Protector and his NPM functions were strengthened. Financial independence was reinforced, while the Law Amending the Law on the Prohibition of Discrimination strengthened the function of the Protector as an institutional anti-discrimination mechanism. In 2016, the Ombudsman was accredited before the

GANHRI with B status, which means that the institution is partially aligned with the Paris Principles.

7. In December 2019, new Protector took office. In 2020, deputy protectors were appointed to perform functions related to protection against discrimination, vulnerable groups and gender equality, and to public administration and justice, respectively. In July 2020, a new Rulebook on internal organization and job classifications was adopted. In accordance with the recommendations of relevant international organizations, the personnel and administrative capacities of the institution were strengthened.

8. In the previous three years, there was a high percentage of completed cases (above 96%) which shows efficiency of working practices. On top of it, the opinions of the Protector were recognized as a good example of the application of international standards and practices. In previous years, proactive action was improved, as well as presence in the public.

9. The organic Law on Prohibition of Discrimination from 2017 has been significantly improved and harmonized with EU legislation (primary and secondary law), especially in terms of the definition, bases and areas of discrimination, meaning of terms, special forms of discrimination, and cases that will not be considered discrimination. The penal measures governed by the law were also amended. The MHMR supported by a TAIEX mission and based on the recommendations of the Ombudsman and international experts, has started to develop the new law.

## **II. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee**

### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

#### **Reply to paragraph 3 of the list of issues prior to reporting**

10. The Centre for Training in Judiciary and State Prosecution Service, as well as the Human Resources Management Authority, organized a series of training sessions, conferences aimed at raising awareness of the Pact, primarily training sessions related to anti-corruption measures, war crimes, prohibition of discrimination, violence against women and children, prohibition of torture, human trafficking, independence of the judiciary, the right to a fair trial and freedom of expression.

### **Anti-corruption measures (arts. 2 and 25)**

#### **Reply to paragraph 4 of the list of issues prior to reporting**

11. The Law on the Special State Prosecutor Office was adopted in 2015. In accordance with the provisions of the law, the Special Police Unit (SPU) was also established. SPU performs police tasks related to criminal offences under the competence of the Special State Prosecutor Office (SSPO). SPU started operating in March 2016, as an organizational unit within the Police Directorate (PD) – The duties and tasks performed by SPU refer to organized crime offences, regardless of the prescribed sentence. Proceeding from the legal competences, SPU acts on the orders of SSPO based on legal regulations and legal prerequisites from the criminal legislation.

12. During the initial period 2016–2018, SPU had 20 officers who managed to achieve significant results. As the number of cases and the scope of work exceeded the existing HR capacities, the 2019 Rulebook on internal organization and job classifications of the PD included 32 SPU jobs in the then Organized Crime and Anti-Corruption Department. Under the 2021 Rulebook, SPU was organized within the Crime Department and the need to increase personnel and technical capacities was recognized, so it was planned to increase the

number of civil service positions from the existing 32 to 50, with emphasis on the High-Level Corruption Team.

13. The number of prosecutors at work in SSPO has increased. From 11 prosecutors who acted on the cases, the prosecutor office at SSPO is now performed by the Chief Special Prosecutor, 9 special prosecutors, 2 state prosecutors seconded by the High State Prosecutor Office in Podgorica and 2 state prosecutors seconded by the Basic State Prosecutor Office in Podgorica.

14. The 2021 Law Amending the Law on the State Prosecution Service contributed to eliminating the political interference with the work of the State Prosecution Service and to improving the work of the Prosecutor Council (PC). Provisions were introduced defining the prevention of conflicts of interest of PC members, which further boosted its independence. A new PC has been selected.

15. The Judicial Council and the Prosecutor Council continuously conduct the process of evaluating the work of judges and state prosecutors. In order to improve the disciplinary framework for judges and prosecutors, a disciplinary prosecutor and a disciplinary council were appointed, for Judicial and Prosecutor Council respectively. On the topic of disciplinary responsibility, training of judges and state prosecutors is regularly conducted. Having examined a number of problems that were recognized during the implementation of the procedure of judicial office holders evaluation, MoJ initiated an amendment to the relevant regulations in order to further improve the system of disciplinary responsibility in the judiciary and the state prosecution service, especially as regards the adoption of quality legal regulations governing evaluation benchmarks and criteria.

16. In accordance with the Law on Prevention of Corruption, the obligation of judges and state prosecutors to submit income and asset declarations to the Anti-Corruption Agency within 30 days from the date of taking office is prescribed. Codes of ethic for judges and state prosecutors have been adopted and they are regularly trained. Commissions for monitoring compliance with codes of ethics by judges and state prosecutors have also been established.

17. As for Montenegro's accession to the EU, the Supreme Court, as well as the Supreme State Prosecutor Office, have representatives in the Working Group on Negotiating Chapter 23, whose focus is on monitoring the results in the field of prevention and repression of high-level corruption.

18. Montenegro is also obliged, in accordance with the Law on Prevention of Corruption, to adopt integrity plans. A public authority has to make the integrity plan available to the public by placing it on its website or by other appropriate means. Every other year, the public authority assesses the effectiveness and efficiency of the integrity plan in accordance with the rules for its development and implementation.

19. The trend of growth in the number of submitted income and asset declarations continued, due to increased information and education of public officials, and there was a significant increase in the submitted special reports on the increase of their assets.

20. In March 2021, Montenegro signed an international agreement on data exchange for the purpose of verifying asset declarations, which aims at direct administrative data exchange related to the declared assets between the Parties to this Agreement. In addition to Montenegro, this Agreement was signed by Serbia and North Macedonia. The ratification process is underway.

21. With a view to fighting corruption effectively, from 1 January 2022 to 31 December 2022, in 11 cases, SSPO issued an order to conduct an investigation against 76 natural and 5 legal persons. In the reporting period, with investigations from the previous period, 35 cases were active at the stage of investigation initiated against 201 natural persons and 5 legal entities, while in the same period investigation against 9 natural persons was discontinued in 4 cases.

22. From 1 January 2022 to 31 December 2022, SSPO ordered provisional measures to preserve assets in two cases against 3 natural and 5 legal persons, relating to funds frozen in the accounts of 3 natural and 4 legal persons, as well as real estate registered to 1 legal person.

23. In the same period, the High Court in Podgorica filed six motions to bring charges against eight natural persons and brought 11 indictments against 73 natural persons and 5 legal persons.

24. As for the results achieved in the fight against high-level corruption, it is important to point out that criminal proceedings have been initiated against the former state prosecutor S.J. from the Basic State Prosecutor Office in Kotor, by filing a motion to bring charges to the High Court in Podgorica for the offence of abuse of office referred to in Article 416(1) of the Criminal Code of Montenegro (CC). The main hearing is ongoing before the High Court in Podgorica.

25. Criminal proceedings were also initiated against the former president of the Supreme Court, V.M., for the offence of trading in influence referred to in Article 422 of the CC, abuse of office through instigation referred to in Article 416 of the CC, judge of the Commercial Court M.V.M., for the offence of abuse of office referred to in Article 416 of the CC. SSPO issued an indictment against the said officials, holders of high judicial offices and other persons, which was confirmed by the High Court in Podgorica after the indictment review procedure.

26. Criminal proceedings were also initiated against the President of the Commercial Court, B.J., for the offence of abuse of office referred to in Article 416 of the CC. In this case against president of the Commercial Court, B.J., and other persons, SSPO filed an indictment, which was confirmed by the High Court in Podgorica after the review procedure.

27. Due to high-level corruption, an indictment was filed against the former responsible officers in the company 13. Jul – Plantaže due to the existence of a reasonable suspicion that they committed the offence of abuse of office in business operations referred to in Article 272 of the CC. They were with acting contrary to the interests of the company and to the detriment of the company, by entering into a liability in the amount of EUR 5,729,735.00. Due to the partial execution of an apparently harmful settlement, they obtained for another company – OMP Engineering – illegal pecuniary gain in the amount of EUR 384,672.40, and inflicted damage on the injured company – 13.jul – Plantaže. The indictment in question was submitted to the High Court in Podgorica for further proceedings.

28. The SSPO filed an indictment against the former executive director of the Investment and Development Fund, Z.V., the director of the financial and legal affairs department of the IDF, J.B., and the director of the loans and guarantees department of the IDF, the accused Z.V., as well as against the chief of staff of the executive director of the IDF, S.R., on reasonable suspicion that Z.V., J.B. and Z.V. committed the attempted offence of abuse of office in business operations referred to in Article 272(3), in conjunction with paragraph 1, in conjunction with Article 20 of the CC, while the accused S.R. was charged with attempted abuse of office in business operations through supporting referred to in Article 272(3), in conjunction with paragraph 1, in conjunction with Article 20 and Article 25 of the CC. The indictment of the SSPO filed against senior officials of the IDF, has been confirmed by the High Court in Podgorica and the main hearing before this court is underway.

29. An indictment was filed against the employee of the National Security Agency, P.L., on reasonable suspicion that, among other criminal offences, he committed the criminal offence of abuse of office referred to in Article 416 of the CC. The indictment of SSPO filed against the employee of the NSA, P.L., was submitted for further proceedings to the High Court in Podgorica.

30. The SSPO also initiated criminal proceedings against the director of the NSA, D.P., on reasonable suspicion of having committed the continuing offence of abuse of office referred to in Article 416(1) in conjunction with Article 49 of the CC. The main hearing is underway before the High Court in Podgorica in the case at hand.

31. The SSPO also initiated criminal proceedings against the former director of the Revenue and Customs Administration, R.M., as well as other employees of the RCA, who were charged, under an order to conduct investigation of SSPO, with the existence of a reasonable suspicion that they committed the offence of abuse of office referred to in Article 416 of the CC and receiving bribes referred to in Article 423 of the CC. The investigation of SSPO, in this case, is ongoing.

32. The SSPO initiated criminal proceedings against the special prosecutor from SSPO, S.Č., on reasonable suspicion that he committed several offences of abuse of office referred to in Article 416 of the CC. The investigation into this case is ongoing.

33. The SSPO filed an indictment against the former acting President of the Municipality of Niksic, D.P., on reasonable suspicion of having committed the offence of abuse of office referred to in Article 416(2), in conjunction with paragraph 1 of the CC. The High Court in Podgorica rendered the first-instance judgment finding the accused D.P. guilty of the said criminal offence and at the same time obliging him to pay a sum equal to the material benefit obtained for another person by committing the criminal offence.

34. In order to increase the transparency of the work of SSPO, the annual schedule of assignments in SSPO determines a prosecutor spokesperson who, in coordination with the Chief Special Prosecutor, informs the public in a timely manner about all important matters related to the work of SSPO.

35. The Supreme Court, in cooperation with SSPO, has drafted Guidelines on the Application and Evaluation of Plea Agreements. A special recommendation from these guidelines is that in organized crime and high corruption cases, when assessing whether a plea agreement should be upheld, the courts should consider more attentively whether all the conditions referred to in Article 302(8) of the CC are met, and in particular that the agreement is in accordance with the interests of fairness, and that the sanction corresponds to the purpose of imposing criminal sanctions.

36. The general problems that limit the capacity of the Specialised Department of the High Court in Podgorica to solve effectively complex cases of organized crime, high-level corruption and money laundering should also be underlined. One of the key problems is the lack of adequate accommodation facilities for courts, which has a direct impact on the functioning of the court and on the manner in which criminal proceedings take place. There are also specific problems regarding available human resources, primarily the reduction in the number of judges since August 2021. To explain, after confirmed terminations of judicial office, there were also numerous promotions of judges from the basic courts to the SD of the High Court in Podgorica and from that department to the Appellate Court, which also impacted the tempo of conducting proceedings, and finally the adjudication. A possible solution with regard to future practice can be found in the referral of judges after their promotion to a higher instance court, in order to complete the work on complex cases that have been brought to an end. This would prevent the procedures from being re-opened and thus improve the efficiency of procedures.

37. On 31 July 2019, the Parliament adopted the Code of Ethics of MPs. Training sessions were also organized on the topic of prevention of conflicts of interest and lobbying. Participants were able to improve their knowledge concerning the procedure of declaring income and assets by public officials, as well as the acquired assets public officials are obliged to report even though there is no legal obligation to do so. In addition, the provisions of the Law on Prevention of Corruption were further clarified to the attendees, with an emphasis on the existence of conflicts of interest and restrictions in the performance of public offices. Lobbying and the way it is governed by law were also discussed during the training. In addition, the rights and obligations of the lobbyist and the lobbied person were discussed, as well as how to distinguish allowed lobbying from unauthorized lobbying.

38. During the reporting period, certain organizational and personnel changes were made at the Anti-Corruption Agency (ACA) by adopting a new Rulebook on internal organization and job classifications in the Agency, reorganizing its units, initiating new projects in order to improve the ACA information system, internal procedures and to develop open data policy in the Agency. In the reporting period, the Agency initiated 909 misdemeanour proceedings in the first nine months of 2021 and organized 19 training sessions on the obligations of public officials that they must fulfill upon the taking up of public office. We also point out that work is underway on the development of a new Law on Prevention of Corruption, the adoption of which is expected in the coming period.

## **Accountability for past human rights violations and the right to an effective remedy (arts. 2, 6, 7, 14, 15, 16 and 26)**

### **Reply to paragraph 5 (a) of the list of issues prior to reporting**

39. In the Bukovica case, the High Court in Bijelo Polje rendered the judgment Ks.br. 6/11-10 of 3 October 2011, acquitting all defendants of the charge of having committed crime against humanity under Article 373(2) of the Criminal Procedure Code (CPC), because it has not been proven that they had committed the criminal offence they were charged with.

40. Appellate Court, in its judgment Ksž.br.1/12 of 22 March 2012, acting under the appeal of the Supreme State Prosecutor Office – and legal representatives of injured parties, ex officio, reversed the judgment of the High Court in Bijelo Polje, no.6/11-10 of 3 October 2011, acquitting all defendants of the charge of having committed crime against humanity under Article 373(1) of the CPC, because the act for which they were accused is not a crime under law.

41. After the finality of the judgment, the Supreme State Prosecutor Office filed an application for judicial review with the Supreme Court, due to the violation of the provisions of criminal proceedings – Article 386(1) item 8 and Article 387(1) item 1, proposing to uphold the application and establish that there are violations of the law in favour of the defendants without prejudice to the final judgment. By the decision of the Supreme Court Kzz. br.11/12 of 21 January 2013, the application for judicial review was rejected as unfounded.

### **Reply to paragraph 5 (b) and (c) of the list of issues prior to reporting**

42. 7 criminal proceedings for war crimes were conducted before the courts in Montenegro and all of them are completed with final force and effect:

- Morinj case – The final judgment of the High Court in Podgorica Ks.br.19/12 found four persons guilty of the crime of war crime against prisoners of war referred to in Article 144 of the CC of FRY and sentenced them to 4 years in prison (one person), two years (one person) and three years (two persons);
- Deportation of Muslims case – In its judgment no.6/12 of 22 November 2012, the High Court in Podgorica finally acquitted 9 persons for the crime of war crime against the civilian population referred to in Article 142(1) of the CC of FRY pursuant to Article 373(1) item 2 of the CPC, because there were no evidence that the defendants committed the crime with which they were charged;
- Bukovica case – see reply 5 (a);
- Kaluđerski laz case – High Court in Bijelo Polje rendered the judgment Ks.br.1/08 of 30 December 2013, by which eight persons were acquitted of the charge, for the offence of war crime against the civilian population referred to in Article 142(1) of the CC of FRY, pursuant to Article 373(1) item 2 of the CPC, because it has not been proven that the defendants had committed the crime with which they were charged. The appeal proceedings are underway;
- Strpci case – Final Judgment of the High Court in Bijelo Polje, K. br.5/98 of 9 September 2002, defendant N.R. from Despotovac (Serbia) was found guilty of the offence of war crime against the civilian population referred to in Article 142(1) of the CC of FRY and sentenced to 15 years in prison. The defendant has served his sentence;
- Klapuh family murder case – Final Judgment of the High Court in Podgorica K.br. 20/96 of 16 December 1996, found the defendants J.J., V. Z., K.R. and S. Z. guilty of having committed, as co-perpetrators, the offence of war crime against the civilian population referred to in Article 142(1), in conjunction with Article 22 of the CC FRY and sentenced to a prison sentence of 20 years. The defendant G. V. was declared guilty of the offence of aiding the offender after committing the criminal offence referred to in Article 192(2) of the CC of Montenegro and sentenced to a prison sentence of 8 months, which includes the period spent in detention from 10 August

1992 to 30 April 1993. So, the defendant fully served the prison sentence to which he was sentenced. All the defendants were tried in absentia;

- Zmajevic case – In final and enforceable case against the defendant Z.V. for the offence of war crimes against the civilian population referred to in Article 142(1) of the CC of FRY (which has been continuously reported on), the Supreme Court, by decision Kž-S II br. 4/20 of 29 September 2020, rejected as unfounded the appeal of the accused person's defence attorneys and confirmed the decision of the Supreme State Prosecutor Office Ktz.br. 1/20 of 07/07/2020 rejecting as unfounded the motion of the defence to file an application for judicial review against the final judgment of the High Court in Podgorica Ks.br. 2/17 of 5 June 2019 (sentenced to 14 years in prison) and the Appellate Court Kžs.br. 14/19 of 18 November 2019;
- One criminal case is pending before the High Court in Podgorica against one accused person for the offence of war crimes and the main hearing is ongoing. Witnesses are being heard. The length of the proceedings in this case was significantly influenced by mutual legal assistance, as many witnesses come from BiH, to whom the summonses to testify are served through an international letter rogatory.

#### **Reply to paragraph 5 (d) of the list of issues prior to reporting**

43. In accordance with the Strategy for Investigating War Crimes, SSPO has cooperated with the prosecutor offices of states in the region, aiming at identifying perpetrators of war crimes who are Montenegrin nationals and possibly assigning cases opened in these prosecutor offices when the perpetrators are Montenegrin nationals.

44. Numerous meetings were held which were attended by the Special Prosecutor of Montenegro and the heads and representatives of the prosecutor offices of the countries of the region, as well as representatives of the Missing Persons Commissions. At these meetings they detailed and agreed the future cooperation of prosecutor offices aimed at identifying common regional priorities for improving regional cooperation, and the exchange of data and evidence in the prosecution of war crimes perpetrators.

45. The Special Prosecutor working on war crimes cases held several bilateral meetings with prosecutors from the Prosecution Service of Bosnia and Herzegovina, the Prosecutor Office for War Crimes of Serbia and the Prosecution Service of Croatia. Consultations were conducted and data and evidence were exchanged regarding specific cases that were opened by those prosecutor offices, to check whether war crimes committed on the territories of these countries involved nationals of Montenegro as their perpetrators, and the possible transfer of evidence to SSPO.

46. The SSPO acted on international letters rogatory from the Prosecution Service of the Serbia, the Prosecution Service of Bosnia and Herzegovina, the Prosecution Service of Croatia, the Prosecution Service of Kosovo, and the IIC from the Hague (EULEX Kosovo). The necessary data, evidence and documentation were collected, while the accused persons and witnesses were heard based on these ILRs.

47. The Government has prepared amendments to the Criminal Procedure Code, based on the recommendations of the Residual Mechanism in The Hague. According to these amendments, the evidence obtained in proceedings in The Hague will be used before the Montenegrin courts. This will speed up certain procedures, and there is reason to believe that new procedures will be initiated based on this evidence.

48. From 1 January to 31 December 2022, there were 12 cases in the SSPO in which preliminary investigation procedures were carried out, and the necessary measures and actions towards collecting legally relevant evidence are being taken. Thus, in a case opened on the basis of data and evidence submitted by the Office of the prosecutor of the IRMCT in the Hague, an application for amendment of protective measures was sent to the IRMCT in the Hague, which partially upheld the application, rejecting it for the most part. The SSPO filed an appeal against that decision which was rejected. In the case, the necessary information were collected from one person, and the state prosecutor and advisor had a meeting with the representatives of the Prosecution Service of BiH. In addition, an ILR was sent to BIH and a response was received.



49. From 1 January to 31 December 2022, in 5 cases, SSPO acted on international letters rogatory: 2 international letters rogatory from the District Public Prosecutor's Office in Trebinje and 3 international letters rogatory from the Prosecution Service of Bosnia and Herzegovina, which required obtaining evidence and data relevant to criminal proceedings, and hearing a person as a suspect. In 4 cases, ILRs were handled, and in 1 case, the handling of the ILR is in progress.

#### **Reply to paragraph 5 (e) of the list of issues prior to reporting**

50. Although Montenegro does not criminalize separately the criminal offence described under Articles 2 and 4 of the Convention, it is incorporated in criminal offences: unlawful deprivation of liberty referred to in Article 162; abduction referred to in Article 164; crime against humanity referred to in Article 427; and the war crime against civilians referred to in Article 428. The object of criminal law protection in cases of crimes referred to in Article 162 is the freedom of man and his right to freedom of movement. The action committed by the offence is defined as imprisonment, confinement, or unlawful deprivation of or restriction of freedom of movement in another way. The act of committing the basic form of the crime referred to in Article 164 consists in the taking away or imprisonment of a person by use of force, threat, deception or otherwise. This offence contains elements of the offence of unlawful deprivation of liberty, coercion and extortion. One of the acts of committing a criminal offence referred to in Article 427 is "imprisonment or kidnapping of a person without providing information thereon in order to deny the person legal protection", while one of the acts of committing the criminal offence referred to in Article 428 is "unlawful deprivation of liberty and imprisonment".

51. Since 2009, the Service for the Support of Witnesses/Victims of War Crimes has been operating in the High Courts in Podgorica and Bijelo Polje, with persons authorised to support injured parties/witnesses in cases related to this criminal offence. In order to inform the public about the work of the Service, an informational pamphlet was also published. It contains detailed information about the courts having subject-matter jurisdiction and territorial jurisdiction, the importance of testifying before the court and the testimony itself (security – measures of protection, who can be heard as a witness and who is exempt from the duty to testify, presentation versus confrontation, who can pose questions to the witness, what happens when the testimony is completed), information on the working practices of the Service (first contact with the court, support) and contact information of persons who are authorized to provide support to witnesses/injured parties. Authorized persons from the Support Service are available to answer questions, to give explanations regarding the work of the court, criminal proceedings, and the place of sitting in the courtroom and to do everything they can to make the testimony for the victim a positive experience, not an inconvenience. The informational pamphlet has been made public and distributed to the courts, and is also available on the court website [www.sudovi.me](http://www.sudovi.me).

#### **Reply to paragraph 6 of the list of issues prior to reporting**

52. All victims of war crimes or their families in Montenegro are guaranteed access to justice, compensation and reparation. In civil proceedings initiated by victims of war crimes by lawsuits for compensation of non-material and/or material damage, the courts act in accordance with the provisions of the Law on Obligations and the Law on Civil Procedure.

53. In the period until 2019, a total of EUR 5,714,656.20 of compensation was awarded. Five claims were rejected, four proceedings were discontinued, and in 20 cases the lawsuit was withdrawn. With reference to the Morinj case, courts rendered 154 decisions upholding the claim with final force and effect and awarding 1,485,510.20 euro in total. One decision rejected the claim, four proceedings were discontinued, while in six cases the claim was withdrawn. With reference to the Deportation case, 42 cases were settled, whereby Montenegro undertook to pay to the Claimants the total amount of EUR 4,135,000.00 in compensation of material and non-material damage. With reference to the Strpci case, the claim was upheld with final force and effect in three cases, of which 61,146.00 euro were awarded in two cases, and about 33,000.00 euro were awarded in the third. With reference to the Bukovica case, the claim was rejected in three cases. With reference to the Kaludjerski Laz case, the claim was rejected in one case, while in 14 cases the claim was withdrawn.

54. We underline that the legal bases of previously filed lawsuits (until September 2018) and lawsuits filed after that period are different in earlier lawsuits, the legal basis was compensation for non-pecuniary damage due to violation of individual rights, torture, inhuman and degrading treatment, while in later lawsuits the legal basis is a new form of compensation for non-pecuniary damage – impaired daily living ability and physical pain and fear suffered.

55. In relation to civil proceedings in which the court decided on lawsuits for compensation to victims/injured parties of war crimes, 62 final judgments were rendered in the period from 2018 to 2022.

### **Non-discrimination, rights of minorities and prohibition of advocacy of national, racial or religious hatred (arts. 2, 20, 26 and 27)**

#### **Reply to paragraph 7 of the list of issues prior to reporting**

56. In order to protect the Roma and Egyptian population (RE) from racism, anti-Gypsyism and all forms of discrimination, MHMR launched a kick-off meeting aimed at developing an accredited program to combat anti-Gypsyism for civil servants and young people. This programme will cover various analyses, statistics, research, difficulties and challenges faced by the RE in order to protect them from any form of discrimination against their communities.

57. On the topic of housing, 233 housing units were built through the Regional and Housing Program for RE citizens in Podgorica, Niksic and Berane. Over 1,000 people were provided with housing, and that significantly contributed to the closure of the Konik Camp (the largest collective camp for displaced persons in Montenegro) as well as of other collective centers for the accommodation of displaced and internally displaced persons. With donor support, the international organization HELP implemented several projects financed by the Government of the FR Germany, the EU, UNHCR, which provided 100 housing units in the municipalities of Podgorica, Niksic, Tivat, Berane, Pljevlja and Herceg Novi. It is planned to support RE in the process of legalising facilities that do not have a hindrance to legalization. A commission was formed for this purpose, tasked with selecting families to be assisted, and a public call for the selection of 18 families was prepared. On the topic of employment, new occupations for members of the RE have been standardized (associates in social inclusion of RE in the fields of: education, health care, employment and social protection). Offices for RE were opened in local administrations in Podgorica, Bijelo Polje, Niksic, employing members of the RE. There is a position for Roma as editor of the Roma programme on the national public broadcaster RTCG, which requires a college degree. For the first time in Montenegro, we have a Roma employee who is the head of the child and youth protection unit at the social welfare centre in Herceg Novi municipality. In the field of health, three associates were employed: two associates in Podgorica primary health centre and one associate in Berane primary health centre. They are full-time employees and their positions are financed from the Budget. The Employment Office continuously conducts active employment policy activities, adult education and vocational training programs, activities involving citizens of the RE communities in seasonal employment, as well as in public works programs. Plans for the next period include the employment of 40 associates in the field of health care, employment and social protection in 11 municipalities, where the RE is resident. In 2022, 15 persons belonging to the RE were included in active employment policy measures, or 1.46% in relation to the total number of participants in these measures (1,028). Through the project, implemented by the German HELP, within the framework of the 2015–2017 Sectoral operational programme for Montenegro on Employment, Education and Social policies, 34 RE social inclusion associates were hired in the fields of social protection, health care and employment for a period of 12 months. After the completion of the project in October 2022, in the period from 15/10/2022 to 31/12/2022 HELP financed 21 associates (out of a total of 34), specifically those who proved to be the best during the project. The MHMR was granted funds by the Law on the Budget for 2023 to hire the aforementioned associates (21 of them) for a maximum of another year under a fixed-term employment contract. The Ministry concluded employment contracts starting from 1 January 2023 with 21 associates who will be financed from the budget of Montenegro. They will

work in the same positions in which they worked through the mentioned project. On the topic of education, hiring RE social inclusion associates was continued. So far, 22 associates (mediators) have been employed in primary schools in Podgorica, Niksic, Bar, Berane, Ulcinj, Herceg Novi and Tivat. This practice has proven to be extremely useful for including RE children in the education system, which solves many problems such as irregular attendance of classes, communication between parents and teachers, and motivation of children to continue their education. In 2022, a training course was organized for RE social inclusion associates in the field of education. Out of 23 registered candidates, 19 candidates from the RE community attended the training and earned the title *Roma and Egyptian social inclusion associates in the field of education*. The program of training for the occupation of organizer of social inclusion of RE in education was initiated and financed by MoE. There has been a significant increase in the number of RE children enrolled in schools. By comparison, 1,438 students from the RE communities attended primary school in 2015/16, while 99 students attended secondary school. During the 2022/2023 academic year in primary schools, from I to IX grade there were 1,833 RE pupils (M 950 – F 883), while in the 2022/2023 academic year, 214 pupils were enrolled in secondary schools (M 122 – F 92). Regarding the number of students, 14 RE students applied to the competition for scholarships. The number of RE students in the academic year 2022/2023, who applied for scholarships is 14.

58. The MoE has provided textbooks for all primary school pupils. In addition, free transportation was provided for about 600 primary schools pupils of RE in Podgorica, Niksic, Berane and Cetinje. The principle of affirmative action applies to the free stay of the RE community in student dormitory. In accordance with the AP for the Implementation of the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2021–2025, student dormitories purposefully allocate up to 5% of their accommodation capacity to students with disabilities, RE students and beneficiaries of cash assistance benefits. Currently, free accommodation is used by two RE students. In 2021, the program of primary adult education was implemented in four licenced institutions for adult education: Public Institution (PI) Primary School *Pavle Žižić* in Bijelo Polje, PI School for Secondary and High Vocational Education *Sergije Stanić* in Podgorica, PI Primary School *Marko Miljanov* in Podgorica, and in PI Primary School *Radoje Čizmović* in Niksic. There were 168 attendees: 12 in elementary functional literacy course and 156 in the elementary adult education program course. During 2022, 75 children attended support programs in education, socialization and development. This implies each child attending programmes once a week and the acquisition of knowledge and skills in accordance with the child's development and age. The program is attended by elementary school children who are divided into different courses depending on the mode of support. A total of 36 children received individual support in mastering the school curriculum. In total, 403 individual classes were held with them. A total of 39 children of primary school age attended group classes related to literacy and mastering elementary skills. On the topic of health care, health institutions in Montenegro treat all citizens as “users of the health system”, that is, there is no difference based on ethnicity and health care is equally available to all citizens of Montenegro, including members of the RE. According to a 2016 survey, 43.5% of respondents said they had a medical-care card, while according to a 2020 survey as many as 90.9% of respondents said they owned a medical-care card. All primary healthcare centers regularly performed vaccination of children under the Compulsory Immunization Program. Campaigns on the importance of reproductive health were regularly implemented, with an emphasis on RE women, as well as preventive screenings for the RE citizens. Numerous workshops were held for members of the RE communities on the importance of preventive screenings, the prevention of early marriages and the health importance of maintaining personal hygiene. When it comes to resolving the legal status, which is an important prerequisite for achieving success in the integration of the Roma population and internally displaced and displaced persons, Montenegro has achieved significant results in this area. In the period from 7 November 2009 to 1 January 2021, out of 15,251 applications for approval of permanent residence and temporary residence up to three years submitted by displaced and internally displaced persons, decisions were taken on 15,111 applications, while 140 applications are pending, which is less than 1% of applications. In addition, as one of the twenty countries in the world with a special procedure for determining the status of stateless persons, in the previous period Montenegro achieved visible progress in this area, and in the coming period our state has the opportunity to fully resolve the issue of the status of stateless persons.

59. When it comes to the participation of RE in political and public life, workshops are regularly held to motivate and encourage RE to political participation. A significant number of Roma are involved and are active through non-governmental organizations, but also through the Roma Council, which is the umbrella body for Roma action in Montenegro in exercising their rights, which, in accordance with the Law on Minority Rights and Freedoms, represents and acts for this community. On 18 November 2021, the Roma Council submitted to the Parliament an Initiative to reduce the current census from 0.70 to 0.35%, according to the system of affirmative action, which would imply an amendment to the Law on the Election of Councillors and MPs. The Initiative states that Roma still do not exist as an equal political entity in Montenegro and the voice of Roma is not heard when decisions are taken in the Parliament, so Roma cannot adequately voice political interests through their elected representatives in the Montenegrin Parliament, which leads to their problems remaining unnoticed. The Roma Council also stresses that it is necessary that the composition of the Parliament fully reflects all social diversity and guarantees political equality. In accordance with the Rules of Procedure of the Parliament, the initiative was also forwarded to the Government.

60. On 7 April 2021, the Committee on Human Rights and Freedoms of the Parliament, on the occasion of marking the International Romani Day, organized a thematic session “Children are Children” in the light of support for the March 2020 Public Campaign against Arranged Child Marriages as one of the goals set out in the Declaration of WB Partners on Roma Integration within the EU Enlargement Process, signed in Poznań in 2019. The chairperson of the Committee, members of the Committee and its Administrative and Technical Service, participated in the multilateral meeting of the Human Rights and Gender Equality Network of Committees in the Western Balkans (HUGEN), formed within a project of the Westminster Foundation for Democracy (WFD), implemented from April 2019 to March 2022, on the topic *Improving the Roma community status – implementing the Regional Poznan Declaration on Roma Integration*, held online on 29 September 2021. The chairperson and the support services of the Committee also participated in the Regional Conference *Inclusive Policies for Roma*, held on 8 December 2021 in hybrid format. The conference was organised by the Subcommittee on Roma Affairs of the National Parliament of the Republic of Serbia in cooperation with the Human Rights and Gender Equality Network of Committees in the Western Balkans (HUGEN) and the Westminster Foundation for Democracy, with the support of the OSCE Mission to Serbia.

61. The Government adopted the *Strategy for the Social Inclusion of Roma and Egyptians 2021–2025* with the Action Plan 2021/2023. The main strategic goal of these documents is to improve the socio-economic and legal position of, by building an inclusive and open society based on the fight and elimination of all forms of discrimination, anti-Gypsyism and poverty. The document emphasizes that in order to achieve the strategic goal at all levels of society, it is necessary to establish adequate systemic solutions that will enable a more effective approach in the areas where members of the RE communities are most at risk. In November 2022, a national coordinator was also appointed to monitor the implementation of the said Strategy.

62. With reference to the implementation of the Poznan Declaration by the WB countries, Montenegro organized the third ministerial meeting on Roma integration, aimed at improving the position of Roma in these countries.

63. ROMACTED, *Promoting good governance and Roma empowerment at local level*, a Joint Programme between the EU and the CoE, is aimed at empowering members of the RE communities, as well as providing support to partner municipalities (Bar, Berane, Bijelo Polje, Herceg Novi, Niksic, Tivat and Ulcinj) and Podgorica to implement the process of social inclusion of RE in the best possible way. The activities were implemented with help of the support organization NGO Young Roma, which coordinated work in seven municipalities, while the NGO Civic Alliance was in charge of the implementation of the program in Podgorica – Camp Konik, tasked with ensuring the most efficient implementation of the AP for the Strategy 2021–2025.

64. As part of the ROMACTED program, six municipal working groups have been formed so far, bringing together representatives of the RE communities and relevant local institutions and other entities, who are working together to agree on solving the identified

problems and challenges. Meetings were organized to analyze the conducted assessments of the needs of the community and the capacities of municipalities; the concept of responsible budgeting was presented and joint action plans were made in accordance with it; the project cycle, the conditions for applying for ROMACTED mini grants were presented and joint ideas for the preparation of applications were agreed. All ROMACTED partner municipalities and Podgorica were given the opportunity to apply for support through ROMACTED mini grants. The call for applications was open from end of November to the end of December 2022 and it was related to two actions – the first focused on smaller initiatives/actions to respond to the needs of the RE communities in different areas, while the second focused on actions to mitigate the consequences of COVID-19.

65. Social services of the Parents' Association are intended for children living in extreme poverty, among whom there are RE children, children from single-parent, foster families, or all who are estimated to need additional support and empowerment. The aim of these services is to provide support in education and social integration.

#### **Reply to paragraph 8 of the list of issues prior to reporting**

66. Montenegro is committed to improving the legislative and strategic framework in the field of exercising and protecting human rights and freedoms of LGBTI people. Thus, the Law on the Prohibition of Discrimination prohibits discrimination based on sexual orientation, gender identity and intersex characteristics, the Law prescribes what is considered hate speech.

67. After the successful implementation of the *Strategy for improving the quality of life of LGBTI persons 2013–2018*, the implementation of the Strategy 2019–2023 is underway. The previous Strategy established the fundamental normative framework for the protection of LGBTI persons from discrimination and violence. An integral part of the new Strategy is the drafting of the law on legal gender recognition based on self-determination, the adoption of which is planned by the end of 2023.

68. Through the implementation of activities from the annual action plans, numerous and continuous training courses on human rights for sensitized work with LGBTI persons were implemented, based on the adopted *Curriculum for education of civil servants, judicial office holders and employees of other bodies, organizations or institutions that come into contact with cases of discrimination*. In the past, the activities included sensitization and improvement of capacities and knowledge of a significant number of police officers, judges, prosecutors, medical workers and staff members in primary and secondary schools, as well as staff members in the field of social welfare and social policies, an improved knowledge base concerning the perception of citizens and the perception of high school students in relation to sexual orientation, gender identity and gender characteristics, through implemented research, but also publications for specific categories of professionals from different fields. It is important to state that a significant number of citizens from the LGBTI community, their friends and family members were informed about their rights in the field of misdemeanor and criminal law protection against discrimination and violence. A national focal point network of representatives of local self-governments for the promotion and protection of human rights of LGBTI persons was formed.

69. Discrimination against LGBTI persons is also criminalized by the CC, in which a special article prescribes that committing an offence out of hatred based on sexual orientation or gender identity of another person is to be considered an aggravating circumstance when fixing the sentence.

70. As regards the statement that prosecutions for hate crimes and hate speech against LGBTI persons are insufficient, we emphasize this situation recognized by the new LGBTI Strategy and the planned measures to increase the capacities of the police, the judiciary and the prosecution service in recognizing and prosecuting hate crimes and hate speech against LGBTI persons and further reinforcing trust between the police and the LGBTI community.

71. An analysis of the application of criminal and anti-discrimination legislation was conducted with a focus on protection against hate crimes and hate speech, initiated by the MHMR and supported by the CoE within the Horizontal Facility for the WB and Turkey. The analysis indicated all the challenges faced by judicial authorities and other competent

institutions in relation to prosecuted cases in which LGBTI persons are injured parties, i.e. challenges in the implementation of primarily the CC and the Law on Prohibition of Discrimination, thus covering cases at both the criminal and misdemeanor level.

72. A Trust Team was formed to boost cooperation between the Police Directorate and the LGBTI community. A network of trained police officers was established to contact LGBTI people, which further strengthened the safety of LGBTI people. This network includes all regional police headquarters/police substations in the country.

73. Law on Life Partnership of Persons of the Same Sex was adopted in July 2020, and its implementation began in July 2021, which is a major achievement in terms of further strengthening and improving the human rights of LGBTI people in Montenegro. This law implements the existing international standards, primarily those prescribed by the European Convention on Human Rights. The basis of the civil partnership act is the most widespread model for the introduction of same-sex unions, i.e., a life partnership, recognized by the legislators in most European countries as the best solution for regulating the living community of two persons of the same sex. Since the beginning of the implementation of the Law, over 20 life partnerships have been registered.

74. The tenth pride march was held in Montenegro in October 2022. It did not require any special security measures, which is an indicator of the progress of society in terms of tolerance and respect for diversity.

## **Equality between men and women (arts. 2, 3 and 23–25)**

### **Reply to paragraph 9 (a) of the list of issues prior to reporting**

75. Aiming to achieve gender equality and empowering women, Montenegro has shown evident progress, but also shortcomings that have been recognized through the operational objectives of the *National Strategy for Gender Equality 2021–2025*. The main goal of the Strategy is to achieve a higher level of gender equality in Montenegro, through improved implementation of the existing normative framework and the taking of measures to increase the capacities of institutional mechanisms for the implementation of legal provisions for protection against discrimination, establishment of more efficient and effective coordination, supervision of implementation and reporting. The measures of this Strategy also address the need for more intensive involvement of all actors in society in solving problems related to discrimination based on gender and empowerment of women and persons of different sexual and gender identities. Montenegro developed the Gender Equality Index (GEI) for the first time in 2020. The value of the GEI for Montenegro is 55. The very fact that Montenegro started to use the GEI shows the country's commitment to equality policies and the stimulation of new and different approaches in policy making to ensure gender equality. The index is a comprehensive indicator indicating specific areas where there are problematic differences between men and women in Montenegrin society. In the field of women's political participation, the Strategy identified problematic patriarchal attitudes, as well as social norms that hinder women's participation in public life. In cooperation with the OSCE Mission and the UNDP Office in Montenegro, the line ministry produced videos that were broadcast on public and private channels, as well as social networks, with the aim of changing attitudes on gender-based roles and a more balanced distribution of household tasks. This campaign, implemented at the end of 2021, is only an introduction to activities based on the measures planned by the Strategy 2021–2025. The advantage of the last strategic document is also in inter agency cooperation, and in accordance with the measures and activities from the NSGE, the relevant ministries will be in charge of certain activities in their domain for the sake of a greater degree of efficiency. In accordance with the previously outlined operational objectives of the NSGE, focus will be placed on strengthening the gender mainstreaming of public policies and educating public sector employees on obligations arising from the Law on Gender Equality, changing gender-based stereotypes that have been identified as the cause of gender inequalities with the help of the most important social actors such as the media, and increasing the level of participation of women in areas where they are under-represented, such as political life and STEM (science, technology, engineering, and

mathematics), through the removal of barriers such as unequal division of household labour, including the care of children and the elderly.

#### **Reply to paragraph 9 (b) of the list of issues prior to reporting**

76. In the field of social welfare and family protection, numerous educations of RE community members, representatives of the Police Directorate, the judiciary and the prosecution service, as well as civil servants on the topic Fight against domestic violence, child/arranged marriages and begging were implemented. Campaigns were organized in all Roma settlements in Montenegro, on a continuous basis. The campaigns were implemented “door to door”, concerning the aforementioned topics and flyers were distributed in Montenegrin, Roma and Albanian. In March 2020, the Government, in cooperation with the NGO Center for Roma Initiatives, with the support of the British Embassy in Podgorica, launched a campaign against arranged child marriages titled *Children are Children*. The campaign was launched with the aim of raising public awareness about the harmfulness of arranged child marriages and focused on working with members of the RE communities in Podgorica, Niksic, Tivat and Berane. The Gender Equality Committee of the Parliament organized various activities, as well as a session of the Women’s Parliament. Traditionally, the session also marked the International Roma Day – 8 April.

#### **Reply to paragraph 9 (c) of the list of issues prior to reporting**

77. The Health Promotion Centre within the Institute of Public Health continuously organizes and implements activities aimed at improving the health of women, especially women from vulnerable population groups such as young women and women from the Roma population. In addition, education was organized for health service providers on the topic: Prevention and recognition of domestic violence.

78. The political rights and the ability of women to participate in politics and management processes at all levels have been improved. The Women’s Political Network was established. It initiated legislative changes in key areas and carried out numerous activities, just as the Women’s Club in the Parliament. The activities of the WPN led to amendments to the Law on Financing of Political Entities and Election Campaigns at the end of 2019, while its implementation began in 2020. These amendments relate to two norms. The first norm stipulates that one part of the funds allocated to the parties from the budget should be directed to the account of women’s organizations for their activities, while the second norm provides for an amendment to the formula used for the allocation of funds that the parties receive based on the number of MPs, so that 20% of these funds would be allocated only to those parties that have women in the Parliament. The aim of these changes was to encourage political parties to place women as high on the lists as possible. In 2020, €500,000.00 was allocated for these purposes. The introduction of a norm ensuring the financing of women’s political work within the parties is the biggest step forward in the implementation of the most advanced measure by the CoE and the UN. In the 2020 parliamentary elections, 80% of the parties were campaigning with a focus on female voters.

79. In accordance with the Action Plan for Strengthening the Legislative and Control Role, the responsible committee of the Parliament organizes two annual sessions of the Women’s Parliament.

80. Montenegro has a Speaker and Vice-Speaker of the Parliament whose position is reserved for a candidate of the under-represented sex. The Parliament implemented two Action plans for achieving a gender-sensitive parliament, for the period 2016–2018 and 2019–2020. The AP defined six objectives: improvement and strengthening of leadership and commitment to the concept of gender equality through an inclusive approach; gender balance in political representation through balance in numbers and responsibilities; gender responsible legislation and policies adopted by the Parliament; improvement of parliamentary services and infrastructure with the aim of achieving professional excellence; raising awareness of gender equality in parliamentary culture; Parliament as a representative of gender equality: public outreach. A new plan of activities for the period 2022–2024 is in force.

81. Regulations have been adopted in Montenegro since 2020 which represent the initial steps towards the introduction of gender responsible local policies, including gender responsible budgeting. The MoF has adopted Instructions on the preparation and assessment of the impact analysis of decisions and other regulations of local government bodies, which includes a gender dimension. Article 2 of the Instructions stipulates that the Analysis of the impact of regulations includes “defining problems, i.e. goals that the proposed regulation aims to solve, identifying and analyzing options for solving these problems, assessing the fiscal impact, assessing the impact of regulations on gender equality, consulting stakeholders, monitoring and evaluation”. These articles also state that gender equality must be taken into account when defining problems, goals, as well as options for solving problems.

82. The priorities of the Police Directorate is to increase the participation of women in police work, including training sessions on respect for gender equality and protection against discrimination. In April 2019 the 2019–2024 Human Resources Management Strategy in the PD was adopted, aimed at creating a system in which competent police officers perform the tasks of preserving the security of citizens, the community and the state in a professional and responsible manner. The Strategy identified a low percentage of women’s participation in police work, especially the lack of women in managerial positions and improving that situation is the one of the key objectives of the Strategy. The success indicator for achieving this strategic goal is an increase in the percentage of women in managerial positions in the police from 0% in 2017 to a minimum of 10% by 2024. With the support of the OSCE Mission to Montenegro in 2021, the PD implemented a campaign under the slogan “For more women in the police” which preceded enrollment at the Police Academy. The result of the campaign is 38.8% of women enrolled at the Police Academy, without the application of quotas, which is the highest number of women enrolled at the Police Academy since the beginning of its work.

## **Violence against women and children, including domestic violence (arts. 2, 3, 6, 7, 24 and 26)**

### **Reply to paragraph 10 of the list of issues prior to reporting**

83. The Criminal Code, as amended in 2017, is in line with the provisions of the Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). These amendments introduced a new offence of stalking (Article 168a), and increased the penalties for the offence of domestic violence or extended family violence (Article 220). Two offences of female genital mutilation from Article 151a and forced sterilization referred to in Article 151b were introduced.

84. Two bodies were established to combat domestic violence: Operational team for combating domestic violence and violence against women and the Coordination committee for coordination, implementation, monitoring and evaluation of policies and measures for preventing and combating all forms of violence covered by the Istanbul Convention. They play a significant role in terms of the control, supervision and implementation of both national and international documents in this area. The Operational team, consists of representatives of institutions in charge of working with victims of domestic violence and violence against women. The task of the OT is to examine the overall practice and analyse representative cases, appropriate reports, information papers and opinions to work on identifying further guidelines and initiatives for meaningful changes of public policies and institutional practice in the field of prevention and protection against all forms of domestic violence and violence against women covered by the Convention, including cases of arranged child marriages, with a special, primary focus on the conduct and work of the PD. The team operates on the principle of strengthening coordination and establishing a uniform practice, and the intention is also to target weak links in the chain of acting institutions and to influence and initiate changes through its actions. The Coordination Committee is responsible for coordinating, implementing, monitoring and evaluating policies and measures to prevent and combat all forms of violence covered by the Convention.

85. The implementation of the *Protocol on Prevention and Treatment in Cases of Domestic Violence* began in January 2019. The training programme for the implementation



of the Protocol ensured the implementation of a new approach in everyday work and the exchange of information. The first phase of the training targeted 100 police officers, who were trained to use the new software and ensure data exchange with social welfare centers. The second phase targeted representatives of social welfare centers and other relevant institutions and organizations in the implementation of the new approach. It gathered 120 experts and was carried out with the support of two non-governmental organizations – SOS Niksic and the Shelter for Women and Children Victims of Violence.

86. Since the beginning of the COVID-19 pandemic, The Government launched the SAFE HOME campaign in 2020, in cooperation with the UNDP and non-governmental organizations. The aim of the campaign is to support and encourage victims of violence, especially women and children, to contact the police without hesitation and to expect a quick and effective response. As part of the campaign, the Government and UNDP created a mobile application *Be Safe*, which allows victims of violence to alert the competent services and institutions in a quick and easy way and ask for help. The mobile application also contains educational and informative content regarding domestic violence. Bearing in mind the increased level of risk during the COVID-19 pandemic for all those who had to spend time with violent persons, the PD sent an order to all organizational units active in the field emphasizing and insisting on urgent/immediate action in all cases of domestic violence and violence against women; and imposing against violent persons in all cases where possible, the order for removal from residence, followed by mandatory proposition of protective measures by police officers.

87. The Committee on Gender Equality of the Parliament monitors the application and compliance of national legislation with the Istanbul Convention. In order to promote the Convention, the Committee organized a large number of thematic sessions and participated in global campaigns, with the task of preventing violence against women and improving their human rights and freedoms.

88. Cases of domestic violence and violence against women are mainly resolved within the legally stipulated deadlines. Victims are mandatorily acquainted with their rights and available protection services. Extreme care is taken to thoroughly examine each case of violence. Alternative ways of acting on reports (such as the application of the institute of deferred prosecution) are avoided. Great progress is observed in proposing security measures: order for removal from residence and restraining order. These are measures that are increasingly being proposed by state prosecutors in proceedings before the court, which was not the case before. A serious breakthrough has been noted in terms of proposing detention. The motions to order detention now include data obtained from the misdemeanour court on prior convictions and proceedings conducted before that court for misdemeanors in the field of the Law on Protection against Domestic Violence. These data often form the basis (regardless of previous criminal convictions) for proposing detention of suspects for domestic violence and violence against women. In cases of domestic violence, state prosecutors mainly investigate the history of violence and identify the primary aggressor, in order to fully determine the factual situation. In practice, certain difficulties have been seen regarding the distinction between the offence of domestic violence or extended family violence referred to in Article 220 of the CC with related violations from the Law on Protection against Domestic Violence, which should be overcome by the upcoming amendments to the Law, which are still in the process of preparation.

89. The Ministry of Finance participates by paying 250.00 euro per beneficiary for accommodation in the shelter. The proposal of the 2022 Budget Law provides a proposal for stable, fixed financing of licensed service providers for victims of violence. The amount of 200,000 euro is intended primarily for shelters, and then for other service providers recognised by the Istanbul Convention. In addition, through sectoral analyses, and in accordance with the Law on Non-Governmental Organizations, 140,000 euro were allocated for projects of non-governmental organizations in 2021 in the field of protection against violence against women and domestic violence, while the sum amounted to 100,000 euro for 2020.

90. Marking the global campaign 16 Days of Activism against Gender-Based Violence, the Government, the Capital City and the NGO *Safe Women's House* organized an event

called *Together against Violence against Women*. The project developed leaflets with basic information and contact details for reporting violence to the police.

91. The electronic database for domestic violence, which enables automatic data exchange between the Police Directorate and the social welfare centers, was put into operation in 2019. In this way, a unified, standardized way of recording cases of domestic violence has been established.

92. The campaign on free legal aid for victims of domestic violence and the extended family, which is implemented within the EU/CoE Joint Programme Horizontal Facility, in cooperation with the Supreme Court, the Association of Judges, the Government, the Center for Women's Rights and the SOS line Podgorica, aims to raise the level of information on legal aid that is available to all victims of domestic violence regardless of their financial situation, and includes a whole range of activities such as social networks, TV spots, billboards, leaflets, as well as TV debates and guest appearances. One of the activities is a short informative video for social networks aimed at empowering the victim to contact the competent authorities and seek help. In addition to the representatives of the court, the prosecution service, the Bar Association, a female representative of the PD participated in this video.

#### **Reply to paragraph 11 of the list of issues prior to reporting**

93. Montenegro has adopted the *Strategy for the Prevention and Protection of Children from Violence 2017–2021*, which applies to all children aged 0–18, regardless of gender, citizenship, level of functional abilities or sexual orientation., The Ministry of Labour and Social Welfare conducted the campaign titled Stop Violence in partnership with UNICEF. In early 2017, the NGO Parents Association established a national parent line, with UNICEF support.

94. The MLSW coordinated the work of the working group that developed the guidelines and protocol for the Children's Home *Mladost* for the protection of children from violence, with support of the NGO Juventas. The document was finalised in 2017.

95. Inter-agency Guidelines on the actions of competent institutions in cases of recognition and prosecution of child marriages and common law marriages were developed. The working group tasked with drafting the guidelines was coordinated by the MoI. The document was published on 22 February 2018 on the website of the MoI.

96. In order to combat domestic violence and arranged child marriages, 15 RE activists and members of the REA Network PRVA from four Montenegrin cities: Niksic, Podgorica, Bijelo Polje, and Bar were empowered to influence and follow policies related to the rights of RE women and gender-based violence at the local and national level and are actively involved in combating domestic violence and arranged child marriages.

97. Activities were carried out within the project *Community empowerment towards combating domestic violence and arranged child marriages in Montenegro*, with the aim of empowering and strengthening the capacities of project activity participants to get involved and personally contribute to changes in the RE communities in several Montenegrin cities concerning the combating of violence and arranged child marriages. The work of mediators in the field has contributed to better connections with the RE communities, gaining the trust of the community and recognizing who they can turn to when they need to report domestic violence and arranged child marriages. The initiative *Trust Your Daughter as a Son*, which was implemented in RE in Niksic, Podgorica and Berane, contributed to increasing awareness of the importance of trust between parents and children, with a focus on girls.

98. A total of 109 young people (847 F, 62 M) from the RE communities aged 11 to 18 years from Podgorica, Berane and Niksic attended 10 workshops and 2 two-day seminars to get acquainted with their rights and ways of exercising those rights, as well as to improve their knowledge on 10 topics following the accredited program *Y – Youth – Innovative Approaches in GBV Prevention and Young Boys and Girls Healthy Lifestyles Promotion in the Balkans region*.

99. About 516 young people and adults were involved in four initiatives that were organized in cooperation with young people from the RE communities.

100. The Ministry of Health has started strengthening the health visiting practice and developed an internal protocol on the conduct of health institutions in the prevention and response to violence against children. In cooperation with NGO NARDOS, procedures have been developed to ensure a safe environment in day care facilities. In order to support families, the Family Associate service was introduced in 2014, intended for intensive and comprehensive support to families at risk. Amendments to the Labour Law have been adopted. It was stipulated that an employment contract for the performance of work with children cannot be concluded with a person who has been convicted of acts of sexual exploitation and sexual abuse of children. A new Protocol on the Treatment, Prevention and Protection against Violence against Women and Domestic Violence was adopted, based on the reform of social welfare and childcare. The Protocol pays special attention to the treatment of children with special emphasis on the best interests of the child.

101. In accordance with the transformation plan of the Children's Home Mladost in Bijela, the following were opened in 2019: national children's telephone line, shelter for the protection of children from domestic violence, day care facility for children with disabilities, as well as a Transitional Housing Community – a program to support institutionalized children preparing to leave the institution. In 2017, Montenegro became one of the leading countries in the Global Partnership to End Violence against Children. Activities carried out to protect children from violence and improve the social inclusion of children with disabilities relied on the ongoing reform of the child welfare system, supported by UNICEF, UNDP and the EU. The campaign Stop Violence has launched more intensive public and professional debates on the topic of violence against children – negative experiences in childhood, positive parenting, children victims of domestic violence, child marriages, sexual violence against children, violence against/among children in institutions. A number of training sessions of staff members in the system of social welfare and childcare were conducted. In 2020, social welfare centers provided protection measures for 410 children victims of violence. With UNICEF support, the Social Welfare and Child Care Institute developed standard operating procedures for cross-sectoral cooperation in working with children victims of violence and exploitation, aimed at improving the efficiency of all actors involved in working with children victims of violence. Preparations are underway for the establishment and putting into use of the National Children's House for children victims of violence.

### **Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and treatment of persons deprived of their liberty (arts. 7 and 10)**

#### **Reply to paragraph 12 of the list of issues prior to reporting**

102. Article 20 of the Proposal for a Law Amending the Criminal Code harmonized the provisions of the CC with the requirements arising from ratified international treaties and practices of CAT, CCPR, STR, ECTHR and CPT. These amendments stipulate that: prosecution and execution of punishment for the offence of torture is not subject to a limitation period, penal ranges were tightened, especially if this offence was committed by an official, and the obligation to impose on an official the security measure *disqualification from a profession, activity or duty* in addition to imprisonment is set forth.

103. In 2022, the MoJ drafted the Proposal for the Law Amending the Law on Free Legal Aid with the aim of overcoming the problems observed in the practical application of this regulation and enabling the exercise of the right to free legal aid to particularly vulnerable categories of persons (victims of torture, victims of crimes against sexual freedoms and children who have initiated proceedings for the protection of the rights of the child), who will be recognized as privileged categories of beneficiaries of free legal aid. This will enable the exercise of free legal assistance to these particularly vulnerable categories of persons, and contribute to the implementation of the recommendations of the CAT, as well as to harmonization with international standards in the field of child rights and recommendations proposed by UNICEF. These categories of persons will also be allowed to exercise the right to free legal aid in related proceedings, after the final decision establishes the victim status of these persons. Free legal assistance in related proceedings will as a rule be provided by the same lawyer.

104. According to Article 176 of the Law on Internal Affairs, a police officer will be suspended, inter alia, if criminal proceedings are initiated against him for an offence committed at work or in connection with work, at the earliest at the moment of initiation of criminal proceedings and the suspension lasts until the completion of criminal proceedings. By-laws prescribe the obligation for police officers, as well as security guards in prisons, to wear identification marks.

105. The Code of Ethics of civil servants and state employees at the Criminal Sanctions Execution Administration stipulates, inter alia, that officers shall not inflict, incite or tolerate any form of torture, under any circumstances, including situations when they lawfully use means of coercion; otherwise, disciplinary action would be taken against them for violating the provisions of the Code of Ethics.

106. Under the Law on the Execution of Prison Sentences, Fines and Security Measures, the use of means of coercion is supervised and internally controlled by the head of the CSEA assessing its justification and regularity, of which a report is made and submitted to the MoJ. If judged that the security guard has overstepped or unlawfully applied the means of coercion, the procedure for determining disciplinary responsibility is initiated against him, while at the same time informing the Police Directorate and the competent state prosecutor office, to take actions and measures within their competence. It is certain that the internal control mechanisms at the disposal of the CSEA, and of the MoJ in accordance with the aforementioned law, offer detailed steps for monitoring the use of means of coercion, and for sanctioning their overstepping in disciplinary and possibly, in criminal proceedings. Continuous in-service training of employees and filling in open positions will affect the prevention of excessive use of force against persons deprived of liberty.

107. Supervision over the prevention and suppression of excessive use of force by an official, by the NPM as a relevant institution dealing with the protection of human rights and freedoms and the prevention of torture and other cruel, inhuman or degrading penalties and procedures, is also important.

108. The measures taken to prevent and combat the ill-treatment of persons deprived of their liberty and excessive use of force by law enforcement officials are also actualized in the application of the *Rulebook on the program and method of implementation of in-service training of employees in the CSEA* and the *Instructions on health care of detained and sentenced persons* from April 2019.

109. Standard operating procedures for using means of coercion have been developed in cooperation with CoE experts, within the Horizontal Facility for the WB and Turkey, while standard operating procedures for post-incident management (serious incidents) are under development.

110. The design, structure and modules of the Programme of in-service training of officers of the Treatment Section, Health Care Department, expert and managerial personnel and of the in-service training of security guards in CSEA were developed in cooperation with CoE experts within the Horizontal Facility for the WB and Turkey, as well as with experts of the Ministry of Justice of the Province of Bavaria within the framework of the previously signed Montenegrin-Bavarian Cooperation Initiative.

111. Training of employees of the Criminal Sanctions Execution Administration (CSEA) was continued, with special emphasis on the following topics: International and domestic standards in protection against torture, abuse, inhuman and degrading treatment in relation to persons deprived of liberty – application of recommendations from the opinions of the Protector on the CSEA, as well as Domestic and international standards in the treatment of foreign prisoners, implemented by representatives of the NPM. Training sessions were also organized on the topics of the ECHR Article 3 – case study and Authorizations in the performance of security duties and means of coercion, and procedures in the use of means of coercion, communication, suicide prevention in prisoners, prosocial modeling, prisoner officer interaction, violence among prisoners, use of force, dynamic security, as well as radicalism among prisoners. In 2022, training on the topic of violence among prisoners was continuously conducted. National trainers were also trained through a series of training courses on the prohibition of torture for judges, state prosecutors, police officers and employees of the CSEA.

112. The Strategy for the Execution of Criminal Sanctions 2023–2026 and the accompanying Action Plan envisage a series of activities in order to implement strategic measures, related to improving prevention and protection against abuse and respect for human rights.

113. In relation to point (c), the Protector has not recorded these cases in practice, we have no complaints filed, nor are we aware that such cases happen anymore.

114. The Committee on Human Rights and Freedoms conducted visits to prisons and detention units in order to examine the state and respect for human rights of persons deprived of liberty (detention unit of regional police headquarters in Podgorica in July 2014 and the CSEA – Juvenile Prison and the Department for Women, in March 2020).

115. The MoI supervises the application of regulations governing the conduct of police officers towards persons deprived of liberty and detained persons. Measures taken by the Ministry are aimed at enabling to indisputably establish at all times every aspect of the person's stay in police premises and the conduct of police officers towards them. Formally speaking, requirements are met, while the procurement of the necessary goods, equipment and instruments depends primarily on the available material resources.

116. Special attention in the work of the PD was paid to the lawfulness and transparency of work, respect for human rights and freedoms, compliance with the Code of Ethics, strengthening the integrity of officers, application of legal standards and working methodologies of police forces of EU MSs. Pursuant to the *Rulebook on the mode of dealing with complaints against the work of the police*, a natural and legal person has the right to file a complaint against the work of a police officer to the nearest police station when he considers that in the performance of police duties the officer violated some of his rights or harmed him. If the established facts of the case indicate that a police officer has committed a violation of official duty, misdemeanour or criminal offence, the immediate supervisor, in accordance with his powers, takes the necessary measures to determine liability. A person who considers that his freedoms and rights were breached or that he was harmed through the performance of police duties, has the right to judicial review and compensation.

117. In the process of optimization, the PD accepted CoE recommendations and, in this regard, recognized the need for education and advanced training of law enforcement bodies for further organisation of training courses in the field in order to prevent overstepping of powers and thus abuse and torture. In order to increase administrative capacities, the PD conducts training and specialization of officers through cooperation with the Police Academy in Danilovgrad, the Human Resources Management Authority, international and non-governmental organizations. The subject Human Rights and Ethics is taught at the Police Academy, within the educational program for police officers. It includes 54 classes, four of which are dedicated to the thematic unit prohibiting torture and other cruel, inhuman, and degrading punishment or treatment.

118. Since 2016, the PD has been involved in project Enhancing human rights protection of detained and sentenced persons in Montenegro, which is part of the CoE /EU Horizontal Facility for WB and Turkey.

119. In order to implement the recommendations from the CPT Report on the 2017 visit, an Instruction on the implementation of recommendations from the said report was adopted in 2019, with a plan a plan for the implementation. It was submitted to all organizational units of the PD. As of May 2019, an integral part of the monthly activity reports are also statements on the implemented measures and activities from the said CPT recommendation implementation plan.

120. Based on the analysis of previous actions of police officers and the need for changes and creation of conditions for improving work when enforcing police powers, the PD has developed the following: Manual Prohibition of abuse and torture – protection of mental and physical integrity with cooperation NGO Human Rights Action and the Council for Civilian Oversight of Police) and Manual on Mental tactical training in order to prevent abuse and torture and overstepping authorizations. Instructions were issued on the treatment of persons deprived of liberty and persons held in police custody. New forms for reports on the use of means of coercion were prepared, in accordance with the Law on Internal Affairs, compliant

with international regulations, international standards and best practices governing this area, with accompanying files. Their implementation and training of managerial staff is in progress.

121. From 1 January 2018 to May 2022, due to offences of ill-treatment referred to in Article 166a of the CC and torture referred to in Article 167 of the CC, committed by police officers, state prosecutor offices opened a total of 30 cases against 59 police officers. Courts rendered 14 final judgments, of which in 7 cases convictions, in 6 cases acquittals, while in one case the judgment rendered rejected the charge.

### **Reply to paragraph 13 of the list of issues prior to reporting**

122. The construction of 4 new facilities began: Special Health Institution, Multifunctional Facility, Reception Office and Open Department, while the preparatory activities to construct a prison for the northern region of Montenegro in the municipality of Mojkovac were continued. The project of building a special health institution, a new reception office, an open prison and a multi-functional facility within the CSEA complex is a significant infrastructure project. The Evaluation Committee completed the evaluation of bids submitted within the public procurement procedure for the Project EU for improving access to justice and fundamental rights. One of the lots within this project is the construction of four facilities in the CSEA (special health institution, reception office, multifunctional facility and open prison). A public procurement contract was signed on 1 December 2022. Works on the construction of these facilities began in January 2023, and they are planned to last for 24 months. On 20 October 2022, it adopted the Information paper on the need to provide additional financial resources for the implementation of the IPA 2018 program for the area of Rule of Law and Fundamental Rights. In this way, the financial structure for the implementation of IPA 2018 program for this area was completed.

123. When it comes to the construction of prison for the northern region, the project application of the MoJ was upheld and a TA grant of 100% was received within the WB Investment Framework, in the amount of €1,200,000. The technical dossier for the construction of prison which can accommodate 200 persons deprived of liberty and 120 employees was prepared. The Decision on the borrowing of Montenegro for 2021 stipulates that the state of Montenegro would take out a loan from the Council of Europe Development Bank, for the MoJ needs to construct a capital facility – Prison in Mojkovac, in the amount of up to EUR 15,000,000.00. In October 2022, a public procurement contract was signed for the audit of the main design of prison construction in the municipality of Mojkovac.

124. As regards the health care of persons deprived of liberty, the decision of the MoH of 14 December 2016 established that the infirmaries at the CSEA meet the requirements regarding the premises, personnel and equipment for providing health care at the primary and secondary level in the field of general medicine and dental health care to persons who are serving prison sentences.

125. Examinations of persons deprived of liberty are performed in seven so-called general infirmaries where regular and follow-up medical examinations are performed by a prison doctor and two dental clinics where dental examinations are performed. There are two rooms intended for physical therapy, a pharmacy, and an ultrasound diagnostics room. General medical, dental and certain types of specialist examinations are performed in the Administration, while samples are also taken for laboratory analysis. Other types of health services are provided in public health institutions.

126. Following the statutory procedure for advertising vacancies, 24 employees were hired for an indefinite period in the CSEA: 14 employees at the Security Section in 4 prisons, 1 doctor – head of the Health Care Department, 2 medical technicians, 1 employee at the Public Procurement Bureau and 6 employees at the Vocational Training and Prison Labour Department). In terms of improving the health care of persons deprived of liberty, 3 employees were hired for an indefinite period of time: the prison surgeon general and 2 medical technicians. A specialist intern, urologist, surgeon, psychiatrist, radiologist and X-ray technician, 2 psychiatrists in prisons in Spuz, psychiatrist and general medicine doctor and psychologist in Bijelo Polje Prison continued their work. In 2022, 3 more medical technicians and 2 medical doctors were hired in order to provide better and more complete health care to these persons.

127. When it comes to prisoner rehabilitation and re-socialization, under the supervision of CoE experts, the Treatment Section standardized special programmes implemented by its officers as follows: Programme for perpetrators of crimes with elements of violence; Programme for perpetrators of offences of domestic violence; Specialized programme for group work with narcotics addicts; Specialized programme for group work with alcohol addicts; Programme for perpetrators of sexual offences; Programme for juveniles; Programme for long sentences; Pre-discharge programme. A draft informational pamphlet was made within the Pre-discharge programme titled *How to find a job after prison* and *Social skills training*.

128. NGO projects and programs in the field of protection and promotion of human and minority rights in Montenegro funded from the appropriate item of the Budget of Montenegro for 2021, and which were implemented in 2022, are as follows: CEDEM; Roma Youth Organization Walk with us-Phiren Amenca, – program/project Reintegrate – two workshops organised weekly at the workshop, prisoners of the Roma population work on the creation of handicrafts, decoupage techniques, boxes, frames, etc. The goal of this project was, among other things, to improve the individual abilities of persons serving a prison sentence, and upon their release from prison, to gain the opportunity to put to use their knowledge and skills through independent work or offer their services on the labor market: Juventas – program/project Strengthening the capacity of institutions and improving the position of prisoners in relation to the conditional release procedure – (support to treatment implementers and prisoners regarding conditional release), training courses for treatment implementers; Identity – program/project Personal Success Card; Center for Monitoring and Research – CEMI – program/project Restorative Justice Society – promotion of the system of alternative sanctions in Montenegro and Center for Civic Education – program/project Position of minors in criminal proceedings – from prevention to reintegration – projection of four films.

## **Trafficking in persons (art. 8)**

### **Reply to paragraph 14 of the list of issues prior to reporting**

129. The Office for Combating Trafficking in Human Beings has been part of the Ministry of Interior since 2019 and has been renamed the Department for Combating THB. A new national coordinator was appointed in August 2019.

130. Under the new 2019–2024 Strategy for Combating THB, the competent state authorities continuously implement activities with a special emphasis on preventive action and implementation of actions that will contribute to the sensitization and strengthening of professional capacities of representatives of institutions for better identification of victims and potential victims of THB, as well as increasing the awareness of the general public in relation to this phenomenon, which contributes to improving the efficiency and functionality of the system of prevention, identification, protection, assistance and monitoring of victims of THB with a special focus on children, as well as the effectiveness of investigations, prosecution and adequate punishment in accordance with the criminal legislation of Montenegro.

131. Anti-Trafficking Operational team was formed at the end of 2018, headed by the state prosecutor from the High State Prosecutor Office, and including representatives of the MoI, the PD and the MoJ. The establishment of this team has resulted in an increase in prosecutions and convictions.

132. In October 2020, the Government adopted the standard operating procedures for the identification of trafficking victims, in the form of the National Plan for the Formal Identification of Trafficking Victims, developed with the support of the International Organization for Migration. According to the SOP, the identification of victims is not related to the initiation of prosecution and is carried out by a multidisciplinary team. A team for the formal identification of victims of trafficking was established in November 2019.

133. The Law on International and Temporary Protection of Foreigners, which came into force in January 2018, fully implements international and European standards in this field. The Law on Free Legal Aid recognizes victims of human trafficking as privileged

beneficiaries of free legal aid, without assessing their financial situation. Guidelines on the non-punishment of victims of trafficking in human beings have been adopted, as there is no explicit provision on the non-punishment of victims in our legislation.

134. In accordance with the obligations arising from international legal frameworks, all procedural steps are taken with the aim of identifying the presumed victim of trafficking in human beings as soon as possible, thereby ensuring that they are adequately referred and prevented from automatically returning to the countries of origin without adequately addressing their vulnerability. During the reception and admittance of foreigners seeking international protection, specifically focused interviews and indicators are used to determine whether they were victims or could become potential victims, since they are exposed to a number of illegal actions and conduct on their routes. During the admittance, information are provided via psycho-social assistance and support and assistance in exercising rights focused on prevention and preventive action. Additionally, given the degree of vulnerability of these persons, adequate assistance and support in the form of procedural guarantees are provided.

135. Activities are continuously carried out to strengthen the staff potential in terms of training of qualified persons, who encounter foreigners seeking international protection in their work. In this regard, employees are trained adequately and regularly to identify and refer persons whose vulnerability is related to THB, with special emphasis on the THB phenomena, mechanisms to combat THB, identification of victims of THB and case studies.

136. In order to raise awareness among foreigners seeking international protection, and to support their self-identification as victims of THB, multilingual material on rights, available services and assistance units for victims of THB was created and distributed. It has been translated into English and Arabic and distributed to foreigners seeking international protection. Preventive and educational activity aimed at foreigners seeking international protection has raised the level of awareness aimed at eliminating the possibility of becoming victims of one of the forms of THB. If persons are recognized (identified) as victims, they are provided with information as to how and to whom they can turn for assistance and what forms of assistance they can be provided in these situations in Montenegro. The existing informational pamphlet for foreigners seeking international protection in Montenegro is supplemented with information useful for combating trafficking in human beings. It has been translated into 9 languages and is available in printed form. In addition, in order to prevent and protect vulnerable categories from this system, a leaflet was prepared for children of foreigners seeking international protection.

137. In order to prevent juvenile and/or forced marriages among the RE populations, two programmes were accredited: Fight against child trafficking, early and arranged marriages and forced begging and Integration of prevention principles in the fight against trafficking in human beings into the education system of Montenegro. With the support of the International Organization for Migration, standard operating procedures (SOPs) have been developed defining the mode and procedure for assigning the status of a THB victim to a person identified as a potential victim.

138. Due to the existence of an increased risk of trafficking in human beings and exploitation along migration routes, especially regarding women and children in migration, the MoI has developed Standard operating procedures for the treatment of children separated from parents or unaccompanied children, with special emphasis on proactive identification of potential and victims of THB.

139. Operational team members are available 24 hours a day in the field to support each specific case. If the person presumed to be a victim of trafficking in human beings is a child, the meetings are also attended by a staff member of the social welfare centre – case manager and/or guardian appointed by the social welfare centre. The proposed model envisages that the status of a victim can also be obtained based on threat to human rights, and not only if the victims are the object of the offence of trafficking in human beings.

#### **Reply to paragraph 14 (b) of the list of issues prior to reporting**

140. The Supreme Court has prepared an Analysis of case law for human trafficking cases. The analysis gives an overview to the courts and the public on the profiles of victims and perpetrators, the penal policy applied, allows for additional harmonization with international



standards as well as the harmonization of case law regarding penal policy. The subject of the analysis were THB cases completed with final force and effect in the period from 2004 to 2019, which were conducted before the competent courts in Montenegro, which is a total of 18 cases, 17 of which relate to the offence of trafficking in human beings referred to in Article 444 of the CC, and one case to the offence of trafficking in children for adoption referred to in Article 445 of the CC.

141. In November 2021, employees of the PD participated in an international action against human trafficking in order to identify suspects and victims of sexual exploitation, forced begging and forced crime, supported by EUROPOL. More than 14,000 law enforcement officers from 29 countries, led by Austria and Romania, with the support of Europol and Frontex, participated in the implementation of this action. Activities focused on trafficker's routes on roads and airports.

142. As part of EMPACT Joint Action Days against THB in Montenegro, 162 persons were checked, of which 142 were in public places, 10 facilities were checked, and 198 officers of the PD participated in the action. Because of the activities carried out during the course of the action, three investigations were opened, while four potential minor victims of trafficking in human beings were identified. Given the identified forms of human trafficking that are evident in Montenegro, during the action days, emphasis was placed on the form of begging as well as prostitution. During the action, cooperation was established with the responsible social welfare centre, whose workers undertook activities in accordance with their competences regarding minors.

143. Ministry of Interior carried out a number of activities aimed at increasing the capacities of the competent authorities related to the fight against trafficking in human beings, in coordination and cooperation with other institutions and organizations.

144. After 2019, there is a positive trend of an increase in criminal cases due to the offence of THB. In the period from 2019 to 2023, the courts rendered a total of 4 final convictions against 5 accused persons. Out of the total number of judgments, in one case for the offence of trafficking in human beings for the purpose of sexual exploitation, the highest prison sentence has been imposed so far – 17 years on one person and 15 years on another, while in another case related to forced begging, one person has been sentenced to 8 years in prison. Also, in the first final judgment for the form of exploitation for the purpose of entering into an illicit marriage, the convicted person was sentenced to imprisonment of 2 years. There is one judgment that was rendered based on a previously concluded plea bargain, which sentenced the convicted person to imprisonment for a period of one year and two months.

145. There are currently 13 cases in which criminal proceedings have been initiated against 23 accused persons. All these cases, except for one that was remanded for further investigation, are in the phase of trial before the High Courts in Podgorica and Bijelo Polje.

146. In November 2019, the Gender Equality Committee organized the 11<sup>th</sup> session of the Women's Parliament dedicated to the exercise of women's rights in the countries of our region, with an emphasis on combating violence against women and THB, in the light of the conclusions adopted at the Conference on Combating THB, organized by the Committee in cooperation with the NATO Secretary General's Special Representative for Women, Peace and Security Claire Hutchinson and the Ministry of Interior. The conference was organised with the aim of providing the basis for a revision of NATO's anti-trafficking policy, as well as useful support to countries to address this global challenge.

147. In July 2021, the Committee discussed the III GRETA Report concerning the implementation of the CoE Convention on Action against THB by Montenegro, the 2021 Action Plan for the Implementation of the Strategy for Combating THB 2019–2024, and the 2020 Report on the Implementation of the AP 2019–2024. The Committee is encouraged by the information that GRETA also recognized progress in these areas in its Report concerning the implementation Convention by Montenegro and welcomed the above activities undertaken by the competent authorities in Montenegro.

148. Considering that children are recognized as a particularly sensitive category when it comes to human trafficking, the Government with the support of UNICEF, implemented the project Raising Awareness on Child Trafficking Throughout the Educational System. Within

this project, a significant number of civic education teachers were trained on the topic of trafficking in human beings/children and a Handbook on the best methods of transferring knowledge to children on this topic was developed. Trafficking in human beings/children was introduced as a topic within the subject Civic Education.

149. Since 2019, significant activities have been implemented to improve the capacity that deals closely with this area, primarily by establishing a specialized Smuggling and Trafficking in Human Beings and Illegal Migration Section as an organizational unit within the Criminal Investigation Department of the PD, thus creating conditions for more efficient proactive action, which can be reflected in the increased number of criminal reports since then.

150. Persons harmed by the offences of trafficking human beings may claim compensation before our courts, both for material and non-material damage. Compensation procedures are carried out in accordance with the rules of the CPC and the Code of Civil Procedure. In 2015, Montenegro passed the Law on Compensation for Victims of Violence.

### **Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7 and 13)**

#### **Reply to paragraph 15 of the list of issues prior to reporting**

151. The legal framework on asylum was aligned with EU standards on asylum with the entry into force of the new Law on International and Temporary Protection of Foreigners in January 2018. Pursuant to this Law, the field of international protection is more fully regulated by adopted by-laws. Through these legal acts, we have mostly applied European standards, which was reflected in the quality and efficiency of the exercise of the rights of foreigners, through coordinated and clearly prescribed procedures. The Law on International and Temporary Protection of Foreigners is based on the full and inclusive application of the Convention Relating to the Status of Refugees and the CEAS, which aims to ensure fair and humane treatment of foreigners seeking international protection. This is one of the first laws that fully implements European standards in the field of asylum. The law is fully aligned with Directive 2013/32. The deadline for deciding is 21 months. Within these statutory deadlines, the Asylum Directorate makes decisions in the procedure on the application for international protection. New practice started since the beginning of 2021 – that of taking decisions within 6 months, except in extremely complex cases that involve determining complex facts of the case and clarifying complex legal issues.

152. In November 2021, as part of the scrutiny and supervisory role of the Parliament Human Rights and Freedoms Committee visited the Reception Center in Spuž. Regarding the current migratory flows that do not bypass Montenegro, Committee of the 27th Parliament took note of the situation in this area at the first session held on 23 December 2020 when it discussed the three reports of the Protector on readmission and migration and adopted the Conclusion thereon. The conclusion was submitted to the meeting of the Parliament Speaker and Parliamentary group leaders for information purposes and to the competent institutions for implementation. The Committee concluded that migration has become a trend that needs to be discussed more loudly and from different aspects in Montenegro, and migrants in Montenegro are most often in transit, because their final destination is another country, as evidenced by the fact that the competent authorities that register migrants often lose track of them after a few days, because they leave the country. The causes of migration are most often geopolitical events, but economic and migratory trends are also present.

### **Independence of the judiciary, administration of justice and fair trial (art. 14)**

#### **Reply to paragraph 16 of the list of issues prior to reporting**

153. The Constitution establishes the principle of separation of power into legislative, executive and judicial branches. The relationship between the branches of power rests on

balances and checks. The constitutional concepts proclaimed by the principles of independence and autonomy of the judiciary and the State Prosecution Service, which were improved by the adoption of amendments to the Constitution in 2013, were elaborated in detail by a set of organizational laws and by-laws in the field of justice, which were harmonized with European standards. By adopting the organizational laws in 2015, the normative change of the judicial system was completed, by making appropriate changes in the organization and working practices of courts and the misdemeanor system, and by creating a quality normative framework for the establishment of a uniform, transparent and merit-based system of selection of judicial office holders at the national level, with the criteria of their permanent voluntary transfer, as well as a system for periodic evaluation as the basis for promotion and a system of ethical and disciplinary responsibility of judges. The following were adopted: the Law on Courts, the Law on Judicial Council and Judges, the Law on the State Prosecution Service, the Law on the Special State Prosecutor Office, the Law on the Centre for Training in Judiciary and State Prosecution Service and the Law on Trainees in Courts and the State Prosecutor Office and the Bar Examination. In addition, the system of initial and continuous training in the judiciary has been significantly improved. The Law on Courts stipulates that funds for the work of courts are provided in the budget of Montenegro and that courts dispose of these funds on their own.

154. The Constitution stipulates that the Judicial Council (JC) has to have a chair and nine members. The members of the JC are the Supreme Court Chief Justice, and four judges selected and dismissed by the Conference of Judges, four distinguished lawyers selected and dismissed by the Parliament (at the proposal of the competent working body of the Parliament upon a public invitation) and the minister in charge of justice affairs. Pursuant to the Law on JC and Judges, a person who has at least fifteen years of work experience in legal affairs and enjoys a personal and professional reputation may be selected as a member of the JC from among prominent lawyers, if he has not been convicted of criminal offences that make judges unworthy to perform judicial office in accordance with this Law. The President of the JC is selected by the JC from among its members, who are not holders of judicial office, by a two-thirds majority of the members of the JC. A minister in charge of justice affairs cannot be selected president of the JC. The President of the JC has the casting vote in the event of an equal number of votes. In proceedings of disciplinary responsibility of judges, the minister in charge of justice affairs does not vote. The term of the JC is four years.

155. The proposal for amendments to the Law on JC and Judges was drafted in order to improve the provisions of the Law relating to the system of ethical and disciplinary responsibility of judges, selection of judges and court presidents, work of the JC, referral and relocation of judges, as well as their evaluation. The proposed law introduces provisions on the prevention of conflicts of interest of members of the JC from among judges, aimed at preventing political interference with the JC and improving its constitutionally guaranteed autonomy and independence. This proposal also fulfils the long-standing recommendations for strengthening the independence of the JC made by the GRECO) and the European Networks of Councils for the Judiciary. Venice Commission gave a positive opinion on the proposed law in March 2023, noting that normative changes in this regulation will contribute to raising citizens' confidence in the work of the judiciary. The Government should soon adopt the proposal for this law. Of the seven court presidents re-appointed for at least a third term, the Supreme Court chief justice and four presidents of the basic courts have resigned. Two presidents of the basic courts who hold at least a third term in office, remain in office.

156. When it comes to the efficiency of the judiciary and improving the enforcement of court decisions, the most important activities in this regard were that the courts network was streamlined by establishing a single Commercial Court for the territory of Montenegro based in Podgorica, while the Commercial Court in Bijelo Polje was abolished. Jurisdiction for the offences of organized crime, corruption, terrorism and war crimes were centralised by establishing one specialized department in the High Court in Podgorica, instead of the previous two departments in the high courts in Podgorica and Bijelo Polje. In addition, a reorganisation has been achieved, bearing in mind that the misdemeanour courts have become part of the ordinary courts of law. Furthermore, the introduction of enforcement officers relieved the courts of enforcement cases and introduced the mandatory competence of notaries, as court trustees, in probate proceedings. After the adoption of the Law on Alternative Dispute Resolution and the establishment of the Center for Alternative Dispute

Resolution, there was a positive trend in alternative dispute resolution. The development of a new single information system for the judiciary is underway. Montenegro has continued to take concrete measures to reduce the backlog of cases, which have been given priority status.

#### **Reply to paragraph 17 of the list of issues prior to reporting**

157. Legal framework was improved in 2015 by amendments to the Law on Free Legal Aid, which enabled this right to be extended both with regard to the procedure in which it can be exercised and with regard to the persons who may request it. In accordance with these amendments, free legal aid may also be used in proceedings before a public enforcement officer, and it may also be used by persons who do not meet the property requirements prescribed by law, if they are economically disadvantaged due to other, prescribed reasons or have become disadvantaged due to non-enforcement of the case. In addition, victims of domestic violence or extended family violence and human trafficking, as well as victims of domestic violence in accordance with the law governing protection from domestic violence, are recognized as privileged beneficiaries of this right.

158. The development and improvement of the free legal aid system was also recognized as a strategic goal by the Judicial Reform Strategy 2019–2022 and the accompanying AP. Significant activities were carried out to reinforce free legal aid, including: the preparation of brochures, informational leaflets and their distribution at info points in all Montenegrin municipalities, organized by the Association of Judges of Montenegro and the NGO Center for Democratic Transition, then the promotion of free legal aid by lawyers during their media appearances and direct contact with citizens. In the reporting period, 13 projects were implemented on the topic of promotion of free legal aid by NGOs, financed by the MoJ. On the websites of courts there is a special section consisting of a list of links on free legal aid. Inside courts, there are also brochures that provide information on who are the beneficiaries of free legal aid, where they can be informed about this aid and submit a request for its provision, as well as the manner in which this right is exercised.

159. In order to overcome the problems that were observed in the practical application of the Law on Free Legal Aid, in 2022 the MOJ drafted a Bill on Amendments to this Law, whose adoption by the Government is expected soon. The proposed amendments will enable the exercise of the right to free legal aid to particularly vulnerable categories of persons (victims of torture, victims of crimes against sexual freedoms and children who have initiated proceedings for the protection of the rights of the child), which will be recognized as privileged categories of beneficiaries of free legal aid. These categories of persons will also be allowed to exercise the right to free legal aid in related proceedings, after the final decision establishes the victim status of these persons.

#### **Right to privacy (art. 17)**

#### **Reply to paragraph 18 of the list of issues prior to reporting**

160. Aiming to improve the administrative capacities of the Agency for Personal Data Protection and Free Access to Information, in the period from 2014 to 2021, there was an increase in the number of employees from 15 to 30, so that the Agency doubled the number of employees. It should be noted that in the stated period, the act on internal organization and job descriptions was amended twice (2016 and 2017), so that the Agency's Rulebook on internal organization and job descriptions, which is in force, defined 28 jobs with 47 employees.

161. In the past period, several training sessions, seminars, workshops were organized, which were attended by employees of the Agency or which aimed to educate citizens, non-governmental organizations, media, representatives of state administration and local self-governments on the application of legislative acts in the field of personal data protection and free access to information.

## **Freedom of conscience and religious belief (arts. 2, 18 and 26)**

### **Reply to paragraph 19 of the list of issues prior to reporting**

162. On 29 December 2019, the Parliament adopted the Law on Freedom of Religion or Beliefs and Legal Status of Religious Communities, and on 20 January 2021, it again passed the Law Amending the Law on Freedom of Religion or Beliefs and Legal Status of Religious Communities. This legislative act constitutes a step forward with the aim of prohibiting discrimination, essentially enabling religious communities and believers to exercise and enjoy their rights without hindrance, primarily by eliminating provisions on out-of-court settlement of property disputes by the executive branch of government.

163. Montenegro has intensive institutional cooperation with religious communities, primarily through the activities of Joint Committees established in order to implement the contracts concluded with religious communities, consisting of representatives of the Government and religious communities.

164. Activities concerning the implementation of signed agreements continued: the Basic Agreement between Montenegro and the Holy See, the Agreement Regulating Relations of Common Interest between the Government of Montenegro and the Islamic Community in Montenegro and the Agreement Regulating Relations of Common Interest between the Government of Montenegro and the Jewish Community in Montenegro. The Basic Agreement between Montenegro and the Serbian Orthodox Church was signed in 2022.

165. Negotiations are under way for the signing of the Agreement Governing Mutual Relations with the Christian Adventist Church, as well as with 6 protestant (evangelical) churches.

166. A total of 20 religious communities are recorded in the single register of religious communities, while 3 religious communities are registered in the single register of religious communities.

## **Freedom of expression (art. 19)**

### **Reply to paragraph 20 of the list of issues prior to reporting**

167. The laws in the field of media were changed significantly twice. For the first time in 2016, the Law on Electronic Communications and the Law on National Public Broadcaster Radio and Television of Montenegro. The second round of complete amendments to the laws began in 2018. On 27 July 2020, the Parliament adopted the Law on the National Public Broadcaster Radio and Television of Montenegro and the Law on Media.

168. In order to further harmonise media laws with international standards, at the end of 2021 Montenegro started drafting a new Law on Media, the Law on Public Service Broadcaster of Montenegro and the Law on Audio-Visual Media Services, in accordance with relevant international recommendations, experience in the implementation of media legislation, and the requests and suggestions of the media community and the NGO sector. Development of the Media Strategy 2023–2027, the first strategic document of its kind, is underway. It also envisages a series of measures aimed at improving the safety of journalists and consolidating all institutional mechanisms in prosecuting all cases of attacks on journalists.

169. Proceeding from Article 30 of the Law on National Public Broadcaster Radio and Television of Montenegro, in June 2021, the Parliament adopted the Decision appointing the RTCG Council. The Speaker of Parliament drew lots, in the presence of representatives of authorized nominators of Council members and determined the term of office of newly appointed members of the RTCG Council.

170. The Committee of the Parliament, responsible for the field of media, is involved in the project Support to Public Service Media in the WB, which is implemented as one of the EU priorities in the reform of public service media in the WB, with the aim of encouraging pluralistic, independent and credible program content.

171. The importance that freedom of the media and freedom of expression occupy in any democratic society, the amendments to the Criminal Code from 2021 strengthened the criminal law protection of journalists by supplementing Article 142 (Definitions) by introducing the concept of jobs of public importance, as well as by supplementing Article 144 (Aggravated murder) and Article 151 (Serious bodily injury). Amendments were also made to Article 165 (Coercion) and Article 168 (Reckless endangerment). Article 179 (Preventing the printing and dissemination of printed matter and the broadcasting of programs) was also amended. These changes relate to the performance of tasks or the publication of information of public importance, which represents aggravating factors for the criminal offense itself.

172. Prosecutor offices submit reports of attacks on journalists to the Supreme State Prosecutor Office. The PD has appointed a chief police inspector, who coordinates all prosecutor and police activities in this area throughout the territory of Montenegro. In all regional police headquarters, two criminal police inspectors are designated as the ones in charge of these activities in the territories under their competence, regardless of whether the reported event satisfies the elements of a criminal offence or misdemeanor. The new composition of the Commission for Monitoring Attacks on Journalists was introduced in 2021. It consists of journalists, media representatives, NGOs, the Society of Professional Journalists, the Media Council for Self-Regulation, the Media Trade Union, the National Security Agency, the State Prosecution Service and the Police Directorate. The changed composition has resulted in more efficient working practices, since now the representatives of the prosecution service are directly involved in the work of this body. A particularly important competence of the new Commission is to monitor cases that occur via social networks, in addition to identified attacks and threats.

#### **Reply to paragraph 21 of the list of issues prior to reporting**

173. Pursuant to the Law on Free Access to Information, every domestic and foreign natural and legal person has the right to access information, without the obligation to state the reasons and explain its grounds for its interest when requesting information. Article 13 of the Law stipulates that the public authority is obliged to allow access to a natural or legal person requesting access to information or a part of it, except in the cases provided for by that Law, while Article 14 prescribes situations where the public authority may restrict access to information or a part of information. In view of further compliance with international standards and challenges that have been recorded in practice, a new Law on Free Access to Information is under development, the adoption of which is expected in the coming period.

### **Freedom of association and participation in public affairs (arts. 22 and 25)**

#### **Reply to paragraph 22 of the list of issues prior to reporting**

174. Representatives of NGOs are members of the PC, the Rule of Law Council, as well as in all working groups in the negotiation process with the EU, with special emphasis on negotiation chapters 23 and 24. It is necessary to point out that the sessions of the Government are broadcast live.

#### **Reply to paragraph 23 of the list of issues prior to reporting**

175. On 29 December 2020, the Parliament adopted a Decision establishing a committee for comprehensive electoral reform. The Committee consists of 14 members, seven of whom are selected from among the parliamentary majority members and seven members who are selected from among the opposition, with the aim of achieving comprehensive electoral reform and establishing full public confidence in the electoral process. Comprehensive electoral reform implies the implementation of recommendations from the European Commission's progress report; recommendations from the OSCE/ODIHR missions report – analysis and proposal of the manner of implementation in accordance with the Constitution of Montenegro; adoption of the Proposal for a Law on the election of local councillors and members of parliament; adoption of the Proposal for a Law on the electoral roll, the Proposal

for a Law on the financing of political entities and election campaigns and the Proposal for a Law on the registers of permanent and temporary residence; analysis of the application of the Law on ID Card and the Law on Montenegrin Citizenship with the possible preparation of amendments to the laws if they prove useful or necessary for achieving the goals; increasing the overall capacities, professionalism and transparency of bodies important for electoral processes, including the State Electoral Commission and the ACA , whose goal, among other things, is to increase public confidence in their work;

176. In accordance with the Decision, in the process of adopting proposals for a law and other acts, as well as all other solutions related to the purpose and tasks of the Committee, the Committee decides by consensus. Exceptionally, in the event that the principle of consensual decision-making cannot be achieved, and there is support from the members of the Committee that guarantees the achievement of the required majority in the plenary, such a proposal may be adopted regardless of the lack of consensus.

177. The Committee launched a public call for the selection of associated members from the universities and the non-governmental sector and formed a Commission to review the documentation following the public calls. Five NGOs applied to the public call for the selection of associated members from the NGO sector. The Committee selected by secret ballot for associated members from the NGO sector: the Alliance of the Blind of Montenegro, the Center for Democratic Transition and the Center for Political Education. No candidates have applied to the first public call for the selection of two associated members of the Committee the university. Following the reopening of the public call, the Committee considered the applications of two candidates when it was noted that one of the candidates did not meet the selection requirements, while the other candidate did not receive the necessary majority for selection. No candidates have applied to the third public call.

178. The Committee on Comprehensive Electoral Reform organized its work within four working groups: working group 1 is responsible for adopting the Proposal for a Law on Election of Local Councilors and MPs , defining the solution on how to hold local elections in all local self-government units in one day, increasing the overall capacities, professionalism and transparency of the State Electoral Commission (answer a); working group 2 is responsible for adopting the Proposal for a Law on Electoral Roll and adopting the Proposal for a Law on Registers of Permanent and Temporary Residence; working group 3 is responsible for adopting the Proposal for a Law on Financing of Political Entities and Election Campaigns and strengthening the overall capacities, professionalism and transparency of the Anti-Corruption Agency (answer b); working group 4 is responsible for analysing the application of the Law on ID Card and the Law on Montenegrin Citizenship with the possible preparation of proposals for amendments to the extent that they prove useful and necessary for meeting the set goals.

179. Working group is also responsible for adopting the Proposal for a Code of Ethical Conduct in election campaigns.

180. The work of the Committee was deadlocked after the decision of the opposition parties at the time not to participate in its work, which resulted in the stagnation of the above-mentioned recommendations. Nevertheless, the working groups of the Committee had meetings on a continuous basis dedicated to the modalities related to holding local elections in one day, as well as to concrete provisions in the Law on election of councillors and MPs. In this regard, standards relating to OSCE/ODIHR recommendations have been analysed. The working bodies of the Committee also worked on the Law on Registers of Permanent and Temporary Residence, as well as on the analysis of the Law on Montenegrin Nationality.

181. In order to eliminate the observed ambiguities and gaps, based on the experience in the application of the Law on Financing of Political Entities and Election Campaigns, the ACA has defined priority recommendations and proposals for improving the legislative framework in this area. With the support of an expert of the CoE, an analysis of the regulatory framework for financing political parties and election campaigns was conducted, which defined a total of 46 recommendations for further improvement.

182. In case of established violations of the Law by coalitions and groups of voters, the Agency does not have formal prerequisites for initiating misdemeanor proceedings against them, since they are not defined by the Law on misdemeanors, nor do they have the status of

legal entities, the Agency sent an initiative to amend the Law on misdemeanours and to align it with the Law on financing of political entities and election campaigns.

183. When it comes to allegations of illegal political party financing in the run-up to the 2016 parliamentary elections (the “envelope affair”), the Agency carried out a check of this political entity *ex officio* and, in accordance with the prescribed competences, initiated appropriate misdemeanour proceedings due to the identified irregularities in the financing of the election campaign. This case is pending before the responsible prosecutor’s office. In fact, due to the established violation of the Law on Financing of Political Entities and Election Campaigns regarding the non-opening of a separate current account and non-payment of contributions from private sources to it, the Agency issued a penalty charge notice of €20,000 to the political entity and adopted a Decision requesting the payment of €47,500 to the budget of Montenegro, which is the sum collected contrary to the Law on Financing of Political Entities and Election Campaigns. The political entity carried out the measures imposed within the period prescribed by law.

184. The Constitution stipulates that the right to choose and be chosen is vested in adult Montenegrin nationals with at least two years of permanent residence in Montenegro.

185. Pursuant to the Constitution, the Law on Election stipulates, *inter alia*, that the right to choose and be chosen as a councillor is vested in voters who have reached the age of 18, who have permanent residence in Montenegro for at least two years and who have permanently resided in a municipality or city municipality, as an electoral constituency.

186. Please note that the Decision of the Constitutional Court abolished the part of the provision of Article 11 of the Law on Election, related to legal competence as a condition for the acquisition of the right to vote, as well as the provision of this Article related to at least 6 months of permanent residence before the day of elections in a municipality or city municipality, as a condition for the acquisition of the right to vote in local elections.

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