



**Convention on the
Rights of the Child**

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Committee on the Rights of the Child

**Consideration of reports submitted by States
parties under article 44 of the Convention**

Initial reports of States parties due in 2008

Montenegro

[23 November 2008]

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Introduction

1. Following the restoration of independence on the basis of the referendum held on 21 May 2006, the Assembly of Montenegro has passed the Declaration on Independence, proclaiming Montenegro an independent and sovereign State taking over its international commitments. In line with the Declaration and the Decision on Independence, Montenegro has acceded to a comprehensive process of succession to international treaties it was party to under former State arrangements (Yugoslavia, State Union of Serbia and Montenegro).

2. Considering that the Constitutional Charter, as the highest legal act of the former State Union of Serbia and Montenegro, specifies that the State member, which secedes forfeits any rights to political and legal continuity of the federation and following the restoration of independence and membership in all relevant international organizations, Montenegro, submitted on 23 October 2006 a succession declaration for the set of United Nations conventions deposited with the Secretary-General of the United Nations that Serbia and Montenegro was a party to. In addition, the succession declaration was deposited for the conventions of the Council of Europe, International Labour Organization and other organizations.

3. Under the Constitution of Montenegro adopted on 19 October 2007, Montenegro is an independent, sovereign State, with a republican system of governance. Montenegro is a civic, democratic, ecological and welfare State, governed by the rule of law.

4. Article 9 of the Constitution establishes the principle of international law supremacy and says: "The ratified and published international agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have the supremacy over the national legislation and shall be directly applicable when they regulate the relations differently from the internal legislation."

5. According to the Census 2003, Montenegro had 620,145 inhabitants, of which number there were 159,496 children under 18 years of age or 25.72 per cent. In accordance with statistical data from MONSTAT for 2007 there are 626,188 people living in Montenegro, of which 150,752 or 24.07 per cent were children under 18. In 2007, 7,834 children were born, of which there were 225 or 15.64 per cent of children born out of wedlock.

6. Montenegro adopted the Convention on the Rights of the Child and its both Protocols. By adopting this Convention, it took over the responsibility, pursuant to the article 44 of the Convention, to submit to the Committee for the Rights of the Child reports on the manner it is implemented and observance of the guaranteed rights of the child. To that end, the initial report was developed on the implementation of the Convention on the Rights of the Child for the period 2006–2008.

7. This report contains the analysis of the legal system in Montenegro in the area of children protection and the way of satisfying their current and developing needs, in compliance with the principles of the Convention on the Rights of the Child. The report also contains the information based on which the Committee for the Rights of the Child shall have the insight into the implementation of the Convention within the mentioned period of time, as well as difficulties and factors influencing the extent to which the obligations from the Convention are realized.

8. The report was developed by the competent State authorities in cooperation with local non-governmental organizations, primarily with the Centre for the Rights of the Child and the Association of Parents of Children with Disabilities "Our Initiative".

9. In accordance with the article 44, paragraph 6, of the Convention, Montenegro shall make this report publicly available.

I. General measures of the implementation of the Convention on the Rights of the Child

A. Legal and institutional framework

1. International instruments adopted in the area of human rights and rights of the child

10. Based on the succession, Montenegro has acceded to the International Covenant on Civil and Political Rights including both its Optional Protocols; International Covenant on Economic, Social and Cultural Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; Convention on the Rights of the Child with both its Optional Protocols; United Nations Convention against Transnational Organized Crime, 2000, Protocol against the Smuggling of Migrants by Land, Sea and Air, and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; Convention on Civil Aspects of International Child Abduction; Convention on the Prevention and Punishment of the Crime of Genocide; International Convention on the Suppression and Punishment of the Crime of Apartheid; International Convention against Apartheid in Sports; Convention relating to the Status of Refugees; Convention relating to the Status of Stateless Persons and Geneva Conventions. Montenegro is a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; International Convention for the Protection of All Persons from Enforced Disappearance; Convention on the Rights of Persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities. It also adopted the following conventions of the Council of Europe: European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children; European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment with its two Protocols.

2. Rights of children defined by the Constitution of Montenegro

11. In its basic provisions, the Constitution stipulates that Montenegro shall guarantee and protect the rights and freedoms, as well as that everyone shall be obliged to respect the rights and liberties of others (art. 6). Pursuant to the article 17 of the Constitution, the rights and freedoms of everyone and thereby of children shall be exercised on the basis of the Constitution and the recognized international agreements. All shall be deemed equal before the law, regardless of any particularity or personal feature.

12. In accordance with the Constitution, the family shall enjoy special protection. Parents shall be obliged to take care of their children, to bring them up and educate them. Children shall take care of their own parents in need of assistance. Children born out of wedlock shall have the same rights and responsibilities as children born in marriage (art. 72).

13. Pursuant to article 73, mother and child shall enjoy special protection. The State shall create the conditions that encourage childbirth. A child shall enjoy rights and freedoms appropriate to his age and maturity. A child shall be guaranteed special protection from psychological, physical, economic and any other exploitation or abuse (art. 74).

14. Besides, article 40 of the Constitution says that everybody shall have the right to respect for his/her private and family life.

15. Provisions of the article 75 say that the right to education under same conditions shall be guaranteed. Elementary education shall be obligatory and free of charge.

16. The Constitution also guarantees the right to health protection for everyone. A child, a pregnant woman, an elderly person and a person with a disability shall have the right to health protection from public revenues; if they do not exercise this right on some other grounds (art. 69).

17. The Constitution stipulates the right to objection of conscience. Pursuant to article 48, no one shall be obliged, contrary to their own religion or conviction, to fulfil a military or other duty involving the use of arms.

18. In accordance with article 79 of the Constitution, persons belonging to minority nations and other minority national communities shall be guaranteed, inter alia, the right to use their own language and alphabet in private, public and official use; the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities; the right to write and use their own name and surname also in their own language and alphabet in the official documents; the right to information in their own language.

3. Harmonization with the Convention of legislation and practice

19. Provisions of the Convention on the Rights of the Child were the starting points in reforming Montenegrin legal system, especially when it comes to enactment of new legal acts in the areas of family relation, social and child protection, education, health, labour relations and criminal law. Adoption of the new Family Law on 1 January 2007 has considerable importance and is composed of the special part on the rights of the child and special procedure provisions on the protection and the exercise of the rights of the child before the court. Development of the Law on the Protection against Family Violence, the Law on Juvenile Justice and the Law on Amendments and Changes of the Law on the Protection of Human Rights and Freedoms, which is to define special rules for activities of the Ombudsman for children in protecting their rights, are under way.

20. Certain activities are carried out in raising awareness of children and adults about the purpose of the Convention. Seminars, round tables and workshops are organized, especially for educational and social workers where they are introduced with importance of the Convention and contemporary methods of the transmission of knowledge on the rights and obligations of the child. Books and brochures were edited for children, which, in popular way and in language understandable for children, say about their rights. Initial activities on the mass introduction of children and adults with the Convention were started by electronic and printed media. Significant contribution to the implementation of the Convention is given by the non-governmental organizations. They organize different social developments through targeted projects and activities in the field of further popularizations of this Convention (education of teachers, social workers, police staff; printing of handbooks, appropriate posters and the like).

21. In cooperation with the UNICEF, the Ministry of Justice is implementing pilot project "Juvenile Justice Reform", which was launched by signing the Memorandum of Understanding on 30 June 2006 between the Ministry of Justice and Supreme State Prosecutor and UNICEF. This provided the basis for realization of the project "Implementation of alternative measures and sanctions for juveniles in conflict with law in Montenegro", which creates the prerequisites for applying the principle of adjustment, i.e. out-of-court settlement between offended and suspected parties to recompense damage in

order to completely or partially remove adverse effects of the crime. Within this project, more than 100 professionals were trained in the area of juvenile justice. Education in mediation between victims and offenders and the overall transformation of the Centre for Children and Adults were initiated, implying the reform and improvement of the curricula for the sheltered children, while the Mediation Centre was also established.

4. Strategies and plans

22. The Government adopted a number of strategies and action plans in various areas important for exercise and protection of the rights of the child. They are: the Development and Poverty Reduction Strategy (2003–2007); the National Action Plan for Children (2004–2010); the National Programme to Prevent Unacceptable Behaviour of Children and Adults in Montenegro (2004–2006); the Strategy for Permanent Solution of the Status of Refugees and Internally Displaced Persons in Montenegro (2005–2008); the National Action Plan for “Roma Inclusion Decade 2005–2015” in Montenegro; the Poverty Alleviation and Social Inclusion Strategy (2007–2011); the Strategy for Improvement of the Status of RAE population in Montenegro (2008–2012); the Strategy for Development of the Social and Child Protection System in Montenegro (2008–2012); the Strategy of the Social Protection of the Elderly in Montenegro (2008–2012); the Strategy for Inclusion of the Persons with Disabilities in Montenegro (2008–2016); the Action Plan for Integration of the Persons with Disabilities in Montenegro (2008–2009); the Strategy on Inclusive Education in Montenegro (2008–2012); the National Strategic Response to Substance Abuse (2008–2012); the Action Plan for implementation of the National Strategic Response to Substance Abuse (2008–2009).

23. The Government of Montenegro adopted the Nation Plan of Action for Children (NPA) 2004–2010, which is a framework document for activities, programmes and strategies to be accepted by the state and civil society until 2010 in order to create the world fit for children. This document is in direct relation with already adopted international treaties and documents, and with the Convention on the Rights of the Child as its main reference.

24. The main aspects of the NPA in Montenegro imply the protection of children facing social and economic difficulties, improvement of access to formal education and participation of children, ensuring healthy lifestyle for children, providing appropriate recognition of the rights of the child to safety and citizenship, as well as environmental protection with sustainable development. The Plan aims at serving the Government and civil society as a guide in their efforts to create positive environment for children.

25. The NPA was developed in cooperation with representatives of all authority levels, individuals, civil society and children. It reflects the key issues and concerns related to children, the way they are perceived by the people in Montenegro, so as activities to be taken in order to improve the lives of the children. The NPA is composed of three separate components: (i) review of the proposed government strategies; (ii) consultations with civil society; and (iii) development of monitoring system.

26. The NPA is tracing the rout for achieving strategic objectives to steer the state, civil sector, families, girls and boys to properly response to the needs of the children. The Plan elaborates its main objectives: all children have the right to be protected from inequality; all girls and boys have the right and access to the quality education; healthy lifestyle for girls and boys; children’s environmental protection; all children are to be considered as full citizens.

27. The NPA established the time frame for achieving each concrete objective, bearers of the activities, monitoring and evaluation mechanisms for the implementation and impacts of the NPA. The basic assurance for the realisation of the NPA is the introduction

of the monitoring process of implementation of the NPA and effects achieved in this implementation. The key four actors in monitoring of this Plan are defined: the Government, line ministries, non-government organizations and DevInfo software (database).

28. Institutional framework for protection and exercise of the rights of the child implies: courts, guardianship authorities, the Council for the Rights of the Child, Ombudsman and line ministries (the Ministry of Health, Labour and Social Protection, the Ministry of Education and science, the Ministry of Justice and the Ministry of Interior Affairs and State Administration). The Ministry of Environmental Protection, the Ministry of Finance, the Ministry of Foreign Affairs, the Office for Gender Equality, the Office for cooperation with NGO, the Office of National Coordinator for Fight Against Trafficking in Persons, the Care Centre for Refugees, the Police Directorate and other institutions are also included in different areas of protection and promotion of the rights of the child.

B. Institutional protection

1. Courts

29. In accordance with the Family Law, judges who conduct the family disputes are obliged to be very well trained especially in the area of the rights of the child (art. 316). Education is carried out in the Centre for Education of the Bearers of Judicial Function, which is a separate organisational unit of the Supreme Court of Montenegro. Pursuant to the Judicial Education Law, education is organized in accordance with annual curriculum and special education curricula (art. 8). The Law on Juvenile Justice is under way, which stipulates that the procedure dealing with juvenile offenders is conducted by a Juvenile Judge who gained specific knowledge in the field of the rights of the child and juvenile delinquency. The specialization is also required for juvenile prosecutors, juvenile barristers and police representatives.

2. Guardianship authority

30. The guardianship authority is an expert social protection department and legally empowered authority to regulate legal protection of the family. The guardianship authority affairs are carried out by specific state authorities – social welfare centres, established in municipalities. The second instance authority is the ministry competent for social affairs. Legal protection of the family and children is exercised and implemented by the guardianship authority in accordance with the family Law, but also in accordance with other legal areas (criminal, social, civil and administrative). The role of the guardianship authority cooperated by the court is of utmost importance in the protection and exercise of the rights of the child. In the court procedure it may have the status of procedural party, legal representative, intervenient and court expert. The guardianship authority provides assistance and support, recommendations and warnings; it also provides mediation services and protective measures. In preparing, pronouncing and implementing decisions and certain measures, the guardianship authority uses all forms of social protection, methods of social and other professional work, so as services of social, health, education and other organisations and institutions.

3. Council for the Rights of the Child

31. In 2007 the Government of Montenegro established the Council for the Rights of the Child to be in charge of: monitoring of the implementation of the National Plan of Action 2004–2010; protecting and promoting rights of the child within the areas of social and child protection, health protection, education and other areas important for protection of the rights and interests of the child; monitoring of the implementation of regulations related to

the protection of the rights of the child; monitoring of the fulfilment of obligations of Montenegro arising from the Convention on the rights of the child and other international documents related to the protection of the rights of the child; initiating adoption of regulations for improvement and protection of the rights of the child; promoting cooperation with local self-government in the process of implementation and protection of the rights of the child; improving cooperation with non-governmental organizations in the implementation and protection of the rights of the child; raising public awareness on the rights of the child and reporting on the status of the rights of the child. In performing envisaged activities, the Council develops cooperation with United Nations agencies and other international organisations dealing with protection of the rights of the child. The Council has nine members (six ministers in the Government, a representative of the Statistical Office, an NGO representative and a representative of public and cultural life).

4. The Protector of the Human Rights and Freedoms

32. The Institution for Human Rights and Freedoms – Ombudsman was established in 2003. This was conditioned by the necessity to provide more efficient institutional protection of human rights and freedoms in Montenegro.

33. The main tasks and objectives of this institution include: protection of human rights and freedoms and also raising of awareness and creation of the environment on the necessity for the rule of law and full and consistent exercise of freedom and rights of the citizens, legal safety, legitimacy and transparency of the work of the State authorities before which citizens exercise their rights. Acting in accordance with the complaints of the citizens or on its own initiative, the Ombudsman shall consider cases involving violations of human rights and freedoms committed by means of enactment, action or failure to act on the part of the state authorities and other holders of public powers and shall undertake activities to remedy such violations in accordance with the present law (art. 23). The Ombudsman shall act in two directions: (i) it shall duly warn about violations of human rights and provide assistance to the citizens in their realization and (ii) contribute to democratic control and improvement of the state administration.

34. In addition to this function, the mission of the Ombudsman also includes general issues of significance for protection and promotion of the human rights and freedoms and development of cooperation with relevant organizations and institutions dealing with human rights and freedoms. All citizens, including children, may address the Ombudsman with a complaint without special formalities and costs and receive quick and efficient intervention. There is no ombudsman for the protection of human rights of the child in Montenegro, but the Assembly is about to appoint a Deputy Ombudsman who will exclusively be in charge of the protection of the rights of juveniles.

C. Promotion and dissemination of the Convention on the Rights of the Child

35. State and other authorities implement the Convention and its principles in their normative governance and practical performances. UNICEF, in cooperation with the Ombudsman and civil sector, developed and disseminated “A guide on the rights of the Child”, which in a popular and understandable manner familiarizes children with the content of the Convention. To promote the Convention on the Rights of the Child, certain non-governmental organizations, particularly the Centre for the Rights of the Child, have launched a number of campaigns and initiatives. Some of these are: “Now I understand what my rights are” (2006–2008); “Let us not miss any child” (2004); “It’s important for us” (2005–2008); “Stop to physical punishment of children” (2008); “Do not turn your head around” (2007–2010). There are also some important projects such as: Promotion of the

Convention on the Rights of the Child for parents of children with disabilities (2001–2002) and Education and Familiarization with the Convention of Debate Clubs and Young Parliaments (2003–2004).

II. Definition of the child (art. 1)

36. The term child was not defined by the law. The term juvenile is most frequently used to define person who has not attained the age of 18. In the criminal legislation, a child is considered any person up to 14 years of age, while a juvenile is a person from 14 to 18 years of age.

37. In accordance with article 45 of the Constitution, active and passive right to elect shall be granted to every citizen of Montenegro who attained 18 years of age.

38. Pursuant to the Family Law, the age of majority comes along with attainment of 18 years. Complete capability of work is attained along with the age of majority or marriage before the age of majority with a court permit (art. 11). A child has the right to education in accordance with capabilities, desires and aspirations.

39. Any child who attained 15 years of age and who is mentally competent may decide about which secondary school he/she will attend (art. 65).

40. Pursuant to the Family Law, a marriage may not be concluded by a person who has not attained 18 years of age (art. 24). Exceptionally, the court may allow conclusion of marriage to a juvenile older than 16 at his/her personal request. Thereabouts the court will, in appropriate manner, examine all circumstances important to determine if there is a free will and desire of the juvenile to get into marriage, so as if the juvenile achieved physical and mental maturity to carry marital obligations out. A child who concluded marriage with the court permit, at the same time obtained full capability for work.

41. Any child who attained 15 years of age and who is mentally competent may decide about which secondary school he/she will attend (art. 65). Any child who has attained 14 years of age may perform legal affairs with prior or subsequent parents' consent, i.e. consent received by the guardianship authority if necessary to alienate or burden real estates or valuable movables and child's rights to the property. Any child who attained 15 years of age may perform legal affairs to manage and dispose of the wage or property achieved by his/her own work (art. 66).

42. The right to inherit is acquired by birth, but also an embryo is considered an heir provided that it is born alive. A child of certain years of age may, by testament, dispose of the property mortis causa. Pursuant to the Inheritance Law, a testament may be made by any mentally competent person who has attained 15 years of age (art. 59).

43. Paternity may be acknowledged by a male who is mentally competent and who has attained 16 years of age (art. 104). Also, the consent of the child who is older than 16 is necessary if a person wants to acknowledge the child as his/her own (art. 106). To adopt a child older than 10 years, the consent of the child is necessary (art. 133).

44. In accordance with the Labour Law, an employment contract may be concluded by a person if attained at least 15 years of age and if he/she is in general health capacity (art. 16). The employment contract may be concluded with a person younger than 18 years of age, with a written agreement of a parent, adopting parent or guardian, if such a work does not jeopardize his health, moral and education, or if such a work is not prohibited by law. A person younger than 18 years of age may conclude a contract of employment only on the basis of findings of the competent health authority determining his capacity to perform the

activities for which the contract of employment is concluded, and if such activities are not harmful for his health (art. 17).

45. According to the Criminal Code, criminal sanctions cannot be applied to a juvenile who at the time of the commission of a criminal offence was under the age of 14 years (a child) (art. 80). To a juvenile who at the time of commission of a criminal offence had attained 14 years of age but had not reached 16 years of age (a junior juvenile) only educational measures may be imposed. A juvenile who at the time of commission of the criminal offence had reached the age of 16 but not the age of 18 (a senior juvenile) can be punished by educational measures, but exceptionally, s/he can be sentenced to juvenile custody. A juvenile can also be punished by security measures on the conditions set forth in the Code. A suspended sentence and a judicial admonition may not be imposed on a juvenile (art. 81).

46. Likewise, this is prescribed by the Law on Misdemeanours. Misdemeanour procedure may not be conducted against any juvenile who at the time of the commission of a misdemeanour was under the age of 14 (a child) (art. 41). For a juvenile who at the time of commission of a misdemeanour had attained 14 years of age but had not reached 16 years of age (a junior juvenile), only educational measures may be imposed. For a juvenile who at the time of commission of the misdemeanour had reached the age of 16 but not the age of 18 (a senior juvenile), educational measures or punishments may be imposed. Along with an educational measure, a protective measure may exceptionally be imposed to a juvenile, if it is necessary due to the nature of the misdemeanour (art. 42).

47. Obligated to attend primary school (art. 4). Primary education of persons over 15 are realized in separate departments of the primary schools or in primary schools for education of the adults (art. 5).

48. In accordance with the Military Law, military service is due at the beginning of the calendar year in which a person, who is obliged to go into the army, reaches 18 years of age (art. 173). Military service is compulsory for all Montenegrin citizens during emergencies or war conditions. In times of peace, servicemen may be invited to the training, on the voluntary principle, to acquire necessary knowledge for performing obligations in the war, for maximum 15 days during the calendar year (art. 172).

49. Pursuant to the Law on Civil Suit Procedure, a child may be interrogated as the witness, if the court considers, on the basis of the findings of the competent authority or expert, that the child is capable of giving the testimony (art. 231). Invitation in the capacity of witness of a juvenile who has not attained 16 years of age is performed through the parents or legal representative (art. 238). A child may also be a witness in the criminal procedure, but may, as other persons, be exempted from duty to testify in the legally prescribed cases. According to the Criminal Procedure Law, a juvenile who, in view of his age and mental development, is unable to comprehend the importance of his privilege not to testify may not be examined as a witness, unless so required by the defendant (art. 97).

50. There is no explicit provision on the minimum age of children necessary for permitted alcohol consumption. Nevertheless, pursuant to the Law on Public Peace and Order, a sentence for the misdemeanour shall be imposed on a person who sells alcohol drinks to a juvenile less than 16 years of age (art. 22).

51. A private complaint of a child in the court is governed by the Criminal Procedure Law and the Law on Civil Suit Procedure. In accordance with the Criminal Procedure Law, a juvenile who has reached 16 years of age or more may file a private complaint by him/herself (art. 53), and a juvenile as the injured party who reached 16 years of age or more may make statements and undertake procedural actions on his own (art. 63). The Law on Civil Suit Procedure sets forth that a juvenile who has not reached a complete capacity

for work is entitled to take civil procedure activities within the limits in which the work capacity is acknowledged (art. 77, para. 3).

52. Agreement for sexual relationship is not explicitly legally defined. However, the Criminal Code prescribes the sentence to be imposed for the criminal offence of extramarital community with a juvenile. An adult person who lives in an extramarital community with a juvenile shall be punished, as well as any parent, adoptive parent or a guardian who enables a juvenile to live in an extramarital community with another person or mislead him/her to do that (art. 216). If a marriage is concluded, prosecution shall not be undertaken, and if it is undertaken it shall be stopped.

III. General principles

1. The right to life, survival and development (art. 6, para. 1)

53. Stemming from the protection of unquestionably most important right — the right to life — the Constitution of Montenegro prohibits capital punishment (art. 26) and guarantees human dignity and safety, as well as inviolability of physical and mental integrity (art. 28).

54. Protection of the right to life is provided in criminal legislation, by prescribing criminal offences of murder and other criminal offences with death consequences, as well as by prescribing criminal sanctions for their executors (Criminal Code — Chapter XIV — Criminal offences against life and body). Also, the Criminal Code provides for several criminal offences against human health (arts. 287–302), against environment (arts. 303–326), as well as criminal offences against general safety of people and property (arts. 327–338). In order to protect the rights of the child, the Criminal Code especially prescribes: criminal offence of infanticide (art. 146), as well as the qualified forms of the offence of incitement to suicide and aid in the commission of suicide if committed against a child younger than 14, i.e. against a child between 14 and 18 years of age (art. 149).

55. The Law on Civil Registry Book stipulates that the data on death shall be entered in the registry of birth and registry of death (art. 6 and 8). Death of a person shall be registered in the place of death within three days from the death occurrence, i.e. from discovery of the dead. Registration of death is made by the health or other institution where person died. If the death of a person occurred outside of these institutions, the registration of death of a person is made by a doctor of medicine who established the death, family members of the deceased or other persons the deceased was living with, or the owner of the apartment where the death occurred. Registration of the death of a person whose corpse was found and identity was not established should be made by the authority that made a record on the discovery of the dead (art. 25).

56. When it comes to the survival and development of a child, the Family Law prescribes the obligation of the State to provide conditions for free and responsible parenthood by means of social, health and legal measures as well as by measures of education and information system, employment policy, housing and tax policy and development of all other activities to the benefit of family and their members. Besides, as the model of family planning, every person has the right to freely decide on the birth of his/her children, while as the parent, he/she shall be obliged to create opportunities and provide conditions for their healthy psychophysical development in the family and society.

57. According to the data from the Police Directorate, in the territory of Montenegro, in 2006 there were 166 criminal offences committed against children. No suicide of a child was registered. In 2007, the number of committed criminal offences whose victims were children is 206. In the structure of these criminal offences, the majority refers to the family

violence (27), acts of violence (25), grave bodily injuries (17), neglect and maltreatment of a juvenile (12). There were registered two attempts of the child murder. In accordance with the MONSTAT data, in 2006 there was one child murder and in 2007 one child suicide. The percentage of the child suicides in total number of suicides is 0.83 per cent, while the percentage of the child murder in total number of murders is 8.33.

2. The best interest of the child (art. 6)

58. It is prescribed by the Law on Family that everyone is obliged to be guided by the best interests of the child in all activities concerning the child (art. 5). The Law obligates the court to be always guided by the best interest of the child in the disputes for the protection of the child's rights and in the dispute for exercising or depriving of parental right (78–87).

59. The guardianship authority shall be obliged to provide parents with appropriate forms of assistance and support and take necessary measures to protect the rights and the best interest of the child, on the basis of immediate cognition or notification. It is stipulated that a child may be adopted and that the foster care may be established only if it is in his/her best interest (arts. 123 and 158).

60. Adoption, organized foster placement and other forms of family placement are the basic forms of protecting the children without parental care. A child who is without parental care is placed under guardianship by the guardianship authority. The purpose of guardianship is to develop the child's personality and to prepare him/her for life by providing care, upbringing and education (art. 179, para. 1). It is stipulated that a child may be adopted and that the foster care may be established only if it is in his/her best interest (art. 123, para. 1). The guardianship authority shall decide about foster placement if it is in the best interest of the child (art. 158).

61. A complaint for the protection of the child's rights may be filed by: the child, the child's parents, the public prosecutor and guardianship authority. The complaint may be filed with respect to all rights acknowledged by this law, if not protected in another procedure (art. 354, para. 1).

62. If there are opposing interests between the child and his/her legal representative, the child is represented by the collision guardian. The child who has attained the age of 10 years and who is mentally competent may, by himself/herself or through some other person or institution, ask the guardianship authority to appoint a collision guardian. The child who has attained the age of 10 years and who is mentally competent may, by himself/herself or through some other person or institution, ask the guardianship authority to appoint a temporary representative for him/her due to existence of opposing interests between him/her and his/her legal representative (art. 356).

63. In addition, the Family Law stipulates that the procedure for the protection of the rights of the child is urgent (art. 360). If there are opposing interests between parents and child in the dispute for protection of the child's rights or in the dispute for exercising or depriving of parental right, the guardianship authority may appoint another guardian. If the court assesses that, in the dispute for protection of the child's rights or in the dispute for exercising or depriving of parental right, the child, as a party is not represented in an appropriate manner, it is obliged to appoint a temporary representative for him/her (art. 357, para. 2).

64. A series of measures for the protection of the child's interests are provided in the area of juvenile justice. Thus, in the Criminal Code, which contains special provisions on juvenile procedure, it is stipulated that on taking actions before a juvenile, especially on his/her interrogation, actors in the procedure are obliged to be careful, taking into account

his/her mental capability, sensibility, personal particularities and privacy, so that criminal procedure may not have adverse effect on him/her (art. 468, para. 2). Neither the course of the criminal procedure against a juvenile nor the decision made in those proceedings may be published without the court's permission. Only the part of the proceedings or only the part of the decision for which there is permission may be published, but, in that case, the name of the juvenile and other data on the basis of which it could be concluded who the juvenile is may not be stated (art. 475). Authorities involved in the juvenile procedure, as other authorities and institutions asked for notifications, reports or opinions, shall be obliged to take urgent action in order to complete the procedure as soon as possible (art. 476).

3. Non-discrimination (art. 2)

65. The Constitution of Montenegro determines that direct or indirect discrimination on any grounds shall be prohibited. It also stipulates that regulations and introduction of special measures aimed at creating the conditions for the exercise of national, gender and overall equality and protection of persons who are in an unequal position on any grounds shall not be considered discrimination. Special measures may only be applied until the achievement of the aims for which they were undertaken (art. 8). All citizens are equal before the law irrespective of any particularity or personal characteristic.

66. The Law on Minority Rights and Freedoms, in its article 39, paragraph 2, prohibits any direct or indirect discrimination, on any basis, including the race, colour, sex, nationality, social origin, birth or similar status, religion, political or other belief, property status, culture, language, age, or mental or physical disability.

67. In accordance with the Criminal Code, anyone who, on grounds of a difference in race, colour of skin, nationality or ethnic origin, or some other individual peculiarity, violates fundamental human rights and freedoms shall be punished. The punishment shall also be imposed on persons who persecutes organizations or individuals for their efforts to ensure equality of people, as well as on anyone who spread ideas about the superiority of one race over another, or promotes racial hatred, or instigate racial discrimination (art. 443). This Code criminalizes infringement of equality, which restricts or deprives persons of the human and citizens' rights stipulated by the Constitution, legislation and other regulations and general acts or recognized international treaties or which grants privileges or exemptions based on the national affiliation or affiliation to an ethnic group, race or confession, or because of the absence of such an affiliation or differences in political or other beliefs, sex, language, education, social status, social origin, property or other personal status (art. 159).

68. The Labour Law stipulates that direct and indirect discrimination of persons looking for employment, as well as employees regarding their gender, birth, language, race, religion, skin colour, age, pregnancy, health condition or disability, ethnicity, marital status, family obligations, sexual orientation, political or other convictions, social origin, wealth status, membership in political and trade union organizations or another personal feature shall be prohibited (art. 5). These discriminations are precisely defined by this law. Direct discrimination, under this law, shall be every action caused by some of the grounds placing a person looking for employment, as well as employee, into less favourable position compared to other persons in the same or similar situation. Indirect discrimination, under this law, shall exist when a certain provision, criterion or practice places or would place a person looking for employment, as well as employee, into less favourable position compared to other persons, because of a certain feature, status, orientation or conviction (art. 6).

69. These forms of discrimination shall be prohibited with respect to employment conditions and selection of a candidate for performing a certain job; working conditions and all labour-related rights; education, training and advanced training; job advancement; cancellation of the contract of employment. Pursuant to article 10 of the Labour Law, in cases of discrimination, a person who is looking for employment, as well as employee, may initiate the procedure before the competent court, in accordance with law.

70. A kind of discrimination may be noticed in the living standard and education of Roma population, as well as with respect to housing conditions and health protection of the children with disabilities placed in the Institution "Komanski most" in Podgorica, which will be referred to later in this document.

4. The rights of the freedom of the views (art. 12)

71. The Constitution of Montenegro stipulates that everyone shall be guaranteed the right to freedom of thought and freedom of expression by speech, writing, picture or in some other manner (arts. 46 and 47).

72. The Family Law guarantees the right of the child to free expression of his/her views in different situations. As a general principle, it was stipulated that a child who is capable of forming his/her own views has the right to free expression of those views (art. 67). A child has the right to receive in a timely manner all information necessary to form his/her views. The views of a child must be given due consideration in accordance with the child's age and maturity with respect to all issues related to him/her and to all actions which bring decisions on his/her rights. A child who has attained 10 years may freely and directly express his/her views in all actions in which his/her rights are decided on. The child who has attained the age of 10 years may, by himself/herself or through some other person or institution, refer to the court or an administrative authority and request assistance in exercising his/her right to free expression of views. The competent authority shall determine the child's view in an informal communication carried out in an appropriate place, in cooperation with the school psychologist or guardianship authority, family counselling office or other institution specialized in mediation in family relations, or in the presence of the person the child has chosen by himself/herself.

73. Obligation of the Court is also stipulated to provide a child an opportunity to express his/her views. If the court determines that a party in the dispute for the protection of the child's rights or in the dispute for exercising or depriving of parental right is a child capable of forming his/her own views, it is obliged to: (1) to ensure that the child receives in a timely manner all information he/she needs; (2) to allow the child to express his/her views directly and to give due consideration to the child's views in accordance with the child's age and maturity; (3) to determine the child's views in the manner and at the place that are in accordance with his/her age and maturity, except if it would be obviously contrary to the best interest of the child (art. 357).

74. Pursuant to article 164 of the Family Law, prior to the foster placement, the guardianship authority shall be obliged to ensure that a child may express his/her view related to foster placement and to give due consideration to the child's views in accordance with the child's age and maturity.

IV. Civil rights and freedoms

1. Right to identity (art. 7)

75. Pursuant to the Law on Civil Registry Books the birth of the child is entered, as a rule, into the birth registry book of the registry area where the place in which the child was born is located. If born in a transport vehicle, the birth shall be entered in the birth registry book of the final destination place of the mother. In the case of a child whose parents are unknown, the birth shall be entered in the birth registry book of the municipality where the child was found. The entry shall be made on the basis of the decision of the guardian authority, which is to contain: name, surname, sex and place of birth. The place where the child was found shall be entered as the place of birth. The decision shall be enacted based on the records on the discovery of the child. The decision and the records shall be submitted to Registrar (art. 18).

76. The birth shall be reported within three days as of the child's birth. The birth of a stillborn child shall be reported within 24 hours as of the birth. If the child was born in the maternity hospital or another health institution, application for the entry of birth shall be as a rule submitted via Internet by that health institution. Reporting the birth of a child who was born outside health-care institutions is the obligation of the child's father, or mother if she is able to do so. In the case that these two persons are not able to report the birth of the child, reporting shall be made by a doctor who participated in the delivery or a person who was present at delivery, or a person in whose home the child was born (art. 19).

77. Data on birth to be entered in the Birth Registry comprise two groups of facts. The first group of facts relates to the child: name, surname and sex of the child, date, month, year, hour, location and municipality of birth, citizenship and unique identification number. The second group comprises data on parents: name and surname, (for mother also maiden name), date and place of birth, citizenship, unique identification number, vocation, place of residence and address (art. 6).

78. Pursuant to the Law on Personal Name, a personal name, which consists of the first name and surname, is a personal obligation of the citizens of Montenegro. A personal name is acquired by its entry in to the Birth Registry Book in Montenegro. Montenegrin citizenship requires that a personal name should be entered into the Birth Registry Book in one of the official languages in Montenegro (Serbian, Bosnian, Albanian and Croatian).

79. Right to free choice of the personal name may not be restricted, unless it is required for the sake of the protection of public safety and freedom of other persons. A personal name shall be entered into the Civil Registry Book in Montenegro (art. 5).

80. In accordance with article 6, personal name of the child shall be agreed by the parents. If one of the parent is not alive, not known or fails to perform parental right, the child's name shall be made by the other parent. The child's surname is determined by the parents according to the surname of one or both parents. If the parents are not alive, not known or fail to perform parental rights, the personal name of the child shall be determined by the guardian with prior approval of the competent guardianship authority. The guardianship authority shall determine the personal name of the child in case that the parents of the child are not known. If the child was adopted prior to determination of the name, the personal name of the child shall be determined by the adopting person. If parents fail to agree about personal name of the child, even with the assistance of the guardianship authority, the name of the children shall be determined by the court in the non-litigious procedure at the proposal of one or both parents or the guardianship authority.

81. In accordance with the Family Law, a child has the right to know who his/her parents are and this right may only be limited by this law. A child who has attained 15 years and who is mentally competent may have the insight into the Birth Registry Book and other documentation related to his origin (art. 61). To exercise this right, the law stipulates the rules for determining and derogating maternity and paternity of the child. Paternity in marriage is determined on the basis of assumption that the spouse is the child's father, while paternity out of marriage is determined by recognition or on the basis of a court decision. Both natural parents and the child have the right to initiate proceedings challenging paternity or maternity.

82. The law determines the parental right and duty to take care of the child. Parents are obliged to take care of their child, to protect, raise, bring up, educate, represent and support the child, as well as to manage and dispose of the child's property. Parents shall have the right to receive from educational and health institutions any notification related to the child (art. 69).

2. Preservation of identity (art. 8)

83. The Law on Personal Name stipulates the right and procedure for the change of a personal name. Personal name or only name or surname may be changed upon the change of the family or personal status (adoption, paternity or maternity determination, marriage, divorce or cancellation of the marriage) or upon request (art. 9). It is necessary to obtain the consent of the parents in order to change personal name of the child. To change personal name of a juvenile who has attained 10 years, it shall be necessary to obtain his/her consent if s/he is competent to express his/her view (art. 17). If the change of personal name of the child is required by the guardian of a juvenile, it shall be necessary to obtain approval of the competent guardianship authority. In case of adoption, the adoptee usually takes the same surname of adopting persons. If adopting persons do not have the same surname, they shall agree about the surname of the adoptee.

84. Pursuant to article 12 of the Constitution of Montenegro, there shall be Montenegrin citizenship. In accordance with the Law on Montenegrin Citizenship, Montenegrin citizenship shall be acquired by: origin, birth in the territory of Montenegro, admission and under international treaties and agreements (art. 4). The Registry on Montenegrin Citizens is conducted and it is a computer-conducted database on name and surname, place and date of birth, unique identification number, parents, manner of acquiring citizenship and other relevant facts (art. 34). In accordance with the law, a Montenegrin citizen who was born in Montenegro shall be entered in the registry of the place of birth, and a Montenegrin citizen whose place of birth is not in Montenegro, shall be entered in the registry of the place where s/he was entered in the birth records in Montenegro.

85. The citizenship of Montenegro ceases upon the request of Montenegrin citizen, under the law and under international treaties and agreements (art. 19). The release from Montenegrin citizenship may be given to a child provided that s/he shall not remain without citizenship.

86. In accordance with the data from the Ministry of Interior Affairs and Public Administration, in 2006 there were 2,699 requests for admission into the citizenship of Montenegro. Out of that number 1,754 requests were refused, 816 requests were approved, 1 procedure for admission was suspended and 128 requests remained unsolved. In 2007 there were 586 requests, out of which 128 from previous year: 377 requests for admission into the citizenship of Montenegro were approved, 98 requests were refused and 111 requests remained unsolved.

3. Freedom of expression and access to appropriate information (art. 13 and 17)

87. In accordance with the Constitution of Montenegro, everyone shall have the right to freedom of expression by speech, writing, picture or in some other manner. The right to freedom of expression may be limited only by the right of others to dignity, reputation and honour and if it threatens public morality or the security of Montenegro (art. 47).

88. The Constitution of Montenegro guarantees freedom of press and other forms of public information. The right to establish newspapers and other public information media, without approval, by registration with the competent authority, shall be guaranteed. The right to a response and the right to a correction of any untrue, incomplete or incorrectly conveyed information that violates a person's right or interest and the right to compensation of damage caused by the publication of untruthful data or information shall be guaranteed (art. 49). There is no censorship in Montenegro (art. 50, para. 1).

89. Pursuant to the provision of the article 51 of the Constitution it is stipulated that everyone shall have the right to access information held by the state authorities and organizations exercising public authority (art. 50, para. 1). The Constitution also guarantees to the minority nations the right to information in their own language (art. 79, item 11).

90. Stemming from the Constitution of Montenegro, which stipulates that everyone shall have the right to the freedom of speech, this fundamental human right is more precisely governed by Montenegrin media legislation adopted in 2002 (the Media Law, the Broadcasting Law, the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro").

91. In accordance with European standards, the main obligation of the public broadcasting services is to offer wide range of informative, educational, cultural, entertaining, art, scientific programmes, programmes for children, sports and other programmes which present society as a whole. Pursuant to the Law on Public Broadcasting Services "Radio of Montenegro" and Television of Montenegro" for these programmes the state shall be obliged to allocate funds from the budget. Also, the public broadcasting services broadcast programmes related to persons with disabilities and members of minority nations and ethnic groups in Montenegro.

92. In accordance with the permanent broadcasting scheme, the public broadcasting service "Radio of Montenegro", in different dynamics, broadcasts (on daily, weekly basis or twice in a month) various types of radio programmes dedicated to children and youth. These programmes, in a popular manner, follow actual developments in educational process in Montenegro in preschool, compulsory and high education with an emphasis on reforms in this sphere. Thus, on weekly basis the following programmes are broadcasted: *An Hour More*, *Curiosity*, *Children's alarm clock*, *My Doctor*, *Mystery of Psyche*, *Library*, *Large Family*, *One may also live with HIV*, *Blind Sportsmen* and the like. The titles themselves point out content of the programmes, which, in a popular manner, follow actual developments in educational system of Montenegro – starting from information on the way of choosing vocation, scholarships, international exchange of students and the like, to those programmes related to their breeding, health protection, various types of communication in families, schools and society, children's cultural and sport manifestations and similar topics.

93. Similar programmes are broadcasted by the public broadcasting service "Television of Montenegro" dedicated to children and youth. They are different cycles of programmes related to areas important for children and youth (education, culture, health, music, ecology and the like.). Within the regular broadcasting scheme, there are various programmes implying cultural and entertaining (children's festivals such as International Children

Festival “Golden Flake” and the like) programmes such as *Smalls and Grown ups*, *Small Schools in Montenegro*, dedicated to the lives of children from villages. Documentary programmes are also worth mentioning “*Balkan talents*” developed in co-production with television companies from Macedonia, Serbia, Albania, Kosovo and Bosnia and Herzegovina. It is designed in the way that children presented themselves to their peers throughout the Balkans.

94. In accordance with the data from the media records, in Montenegro there are print media for children titled: *Cricket*, *Šiki Miki*, *Scholar 1*, *Scholar 2*, *Scholar 3*, *Scholar 4*, etc. Also in the daily newspaper *Pobjeda*, a feuilleton is printed on weekly basis, with the contents related to children. Many educational institutions internally publish school papers, but since the school papers are not considered as media, as per the definition stipulated by the Media Law, we do not dispose of these data.

95. In the Codex of Journalists signed by representatives of all relevant associations of journalists in Montenegro on 21 May 2005, there are 12 basic principles by which a journalist should be guided. Inter alia, it says: “a journalist shall be obliged to protect the integrity of juveniles, those who are different and handicaps” (principle 9). In the Guidelines for implementation of the Codex, the interests of the children are alleged for the principle 9.

(a) Media shall be obliged to act in accordance with the principles of the Convention on the Rights of the Child and with due attention, research and information related to the interests of the child.

(b) Media shall be obliged to take special care when interviewing, photographing or recording juveniles.

96. Though we do not dispose of the information about how the Codex of Journalists is observed in Montenegro, it can be noticed that non-governmental organizations, such as the Journalist Self-Regulatory Body, monitor the work of electronic and print media and point out possible violation of the rules stipulated in the Codex.

4. Freedom of thought, conscience and religion (art. 14)

97. In accordance with the Constitution of Montenegro everyone shall be guaranteed the right to freedom of thought, conscience and religion, as well as the right to the change of religion or belief and the freedom to, individually or collectively with others, publicly or privately, express the religion or belief by prayer, preaches, customs or rites. No one shall be obliged to declare their own religious and other beliefs. Freedom to express religious beliefs may be restricted only if so required in order to protect life and health of the people, public peace and order, as well as other rights guaranteed by the Constitution (art. 46).

98. As regards freedom of thought, according to the Law on Family, parents have the right and duty to direct the child towards the adoption and respect of the values having universal character (art. 71). In foster placement, the guardianship authority shall be obliged to pay due attention to national, religious and cultural origin of the child, his/her age, health and mental status, as well as distance from the previous place of residence, i.e. parental place of residence and school that s/he attends (art. 160).

99. Constitution of Montenegro guarantees that everyone shall have the right to objection of conscience. No one shall be obliged, contrary to own religion or conviction, to fulfil military or other duty involving the use of arms (art. 48). The same right is also guaranteed by the Military Law of Montenegro (art. 177).

5. Freedom of association and peaceful assembly (art. 15)

100. The Constitution of Montenegro guarantees freedom of association and assembly. Article 53 guarantees freedom of political, trade union and other association and action, without approval, by the registration with the competent authority. No one shall be forced to become a member of an association. The State supports political and other associations, when there is a public interest to do so (art. 52).

101. Association in non-profit organization was governed by the Law on Non-Governmental Organization (previously the Law on Association of Citizens). With reference to this law, association may be established by at least five persons with their place of residence or dwelling place or location in Montenegro.

102. The Centre for the Rights of the Child of Montenegro, whose mission is to promote and protect child's rights and to improve quality of lives of the children and youth in Montenegro, carried out various kind of programme activities: camps, counselling, education, participation in the development of the strategy for children, club activities and establishment of children parliament (in 19 primary schools in Montenegro).

103. The Centre has been performing permanent monitoring of the status of child's rights in Montenegro for a long period of time in order to assess the real, not only proclaimed (at least legally) protection of the rights of the child. The other, not less important segment relates to analytical views and valid fact-based statistics. The Centre endeavours to identify level of the exercised rights in a visible and transparent manner, while, on the other side, it tries to strengthen the principle of child participation, in order to ensure that a child may express the rational and recognizable attitude on his/her needs and best interests (2003–2008).

104. The following conferences were organized: "Child participation, the missing link" — Budva (2006) and "Me and my family, school and local community" — Bar (2008). The aim of organizing child conferences was to present to wider audience the respect for the child's rights from children's point of view and in the way the children might know and feel.

105. The Association of the Parents of Children and Young with Disabilities "The Ray of Hope" carried out a series of activities in 2006 and 2007. Together with children from kindergartens, it painted with temperas and watercolours topics of the child's rights promoting the right to freedom of expression. The Association realized project *Support to implementation of inclusive education*, organized a number of humanitarian activities and, in an occasional manner, celebrated the Day of the Rights of the Child and the Day of the Persons with Disabilities.

6. Right to privacy (art. 16)

106. The Criminal Code stipulates several criminal offences related to the violation of the right to privacy: infringement of inviolability of home, illegal search, unauthorized disclosure of a secret, infringement of privacy of mail and other means of communications, unauthorized wiretapping and recording, unauthorized photographing, unauthorized publication and presentation of somebody else's written texts, portraits and recordings, and unauthorized collection of personal data (arts. 169–176). To that purpose, there are stipulated criminal offences against honour and reputation: insult, defamation, spreading information about private and family life (arts. 195–197). The Criminal Procedure Code prohibits announcement of the course of a juvenile proceedings and a decision rendered in the proceedings without the permission of the court (art. 475).

107. The Media Law also contains provisions on privacy protection. Pursuant to article 20 of this law, if media announces any programme which infringes the legally protected interest of a person the information was related to, violates honour or integrity of a person, or spreads or transmits false allegations on person's life, knowledge or abilities, the interested party has the right to file a complaint to the competent court for the compensation against the author or the founder of the related media.

108. It is also stipulated that the media shall be obliged to protect the integrity of juveniles. Media programmes which could imperil health, moral, intellectual, emotional or social development of the child should be clearly and visibly marked in advance and distributed in the least probable manner to be used by the child. Also, the media should not publish identity of the juveniles involved in the criminal offences, neither as the victims nor as the accused (art. 22).

109. Pursuant to the Labour Law, the employer cannot request from the person the data on family or marital status and family planning, as well as submission of documents and other proofs that are not of direct importance for performing the activities for which the employment is entered into, i.e. contract of employment concluded for, and making the statement on cancellation of the contract of employment by that person (art. 18).

110. The Family Law also guarantees the secrecy of data related to adoption. Namely, in the adoption procedure the public shall be excluded (art. 136). The guardianship authority shall keep the records and maintain documentation on the adoption of the child. Data on adoption shall be an official secret (art. 143).

7. The right of the child to protection against torture and unlawful or arbitrary deprivation of liberty (art. 37)

111. Pursuant to the Constitution, detention of juveniles may not exceed 60 days (art. 30, para. 7). The Law on Criminal Procedure precisely stipulates duration of the detention depending on the phase of the procedure. According to article 488, exceptionally, the judge for juveniles may, as per official duties or on the proposal of the State Prosecutor, order a juvenile to be detained if there are legally prescribed grounds for that. In the pretrial proceedings, detention ordered upon ruling of a judge for juveniles may last at the longest one month. The Panel for Juveniles of the same court may, for justifiable reasons, extend detention for a term not longer than one month. After pretrial proceedings are closed, detention may last up to — at the longest — four months for junior juveniles, or six months for senior juveniles. Obviously these provisions of the Criminal Code are not compatible with the Constitution.

112. The rule says that a juvenile shall be detained separately from adult detainees. Exceptionally, the judge for juveniles may order a juvenile to be detained together with adult detainees provided that his separation should last longer and there is a possibility for him to be detained in the room with an adult who would not be of harmful influence to him (art. 489).

113. The Law on Police stipulates that on taking actions before juveniles, especially on his/her interrogation, the police officer shall be obliged to be careful, taking into account his/her mental capability, sensibility, personal particularities and privacy. As a rule, the police authorisations are executed on a juvenile in the presence of the parents or legal representative (art. 16).

V. Family environment and alternative care

1. Right to parental care (art. 5)

114. As regards the Family Law, the family is a life community of parents, children and other relatives who, in terms of this law, have mutual rights and obligations, as well as other basic community of life where children are taken care of and educated (art. 2). The special constitutional protection is enjoyed by each family: marital, extramarital, adoptive, irrespective of the fact whether they are complete or incomplete.

115. Relations between parents and children are based on their mutual rights and obligations, especially those of the parents to take care of the protection of the interests and welfare of the children and of their responsibility for upbringing, education and training for independent life, and responsibility of children to take care of their parents and to respect them (art. 4). There is no difference among children in their family status. The rights and obligations of parents and other relatives against children, as well as rights and obligations of the children against their parents and relatives are equal, regardless of the fact whether the children were born in or out the wedlock (art. 6).

116. Parents jointly exercise their parental rights. If one of the parents died or is not known or is deprived of the parental rights, parental rights belong to the other parent. The parent may not deny parental rights. It is prohibited to abuse parental rights (art. 60).

117. The Family Law explicitly says that parents have the rights and duty to take care of the child. Parents are obliged to take care of their child, to protect, raise, bring up, educate, represent and support the child, as well as to manage and dispose of the child's property. Parents shall have the right to receive from educational and health institutions any notification related to the child (art. 69).

118. Specialized expert services or expert teams for counselling within the area of family relations are in function in all Social Welfare Centres. There are 10 Social Welfare Centres in Montenegro, covering with their services all 21 municipalities.

119. Apart from the above-mentioned institutions, which within social protection provide their services free of charge, the Law on Social and Child Protection stipulates that these services may be performed by natural persons (art. 83). To promote the rights of the child, important programmes have been organized within the social protection systems intended for the staff of the Social Welfare Centres, primarily in the area of foster placement, adoption and programmes for protection of children against abuse and neglect. The acquired knowledge and information on the child's opportunities are directly or indirectly communicated to parents, through regular activities or under specific programmes.

120. In accordance with the Law on Social and Child Protection, supervision of law enforcement shall be conducted by the competent body of the government administration (art. 108).

2. Parental responsibility (art. 18, paras. 1 and 2)

121. Pursuant to article 76 of the Family Law, parents exercise the parental right jointly and by mutual agreement when living together. Parents also exercise parental right jointly and by mutual agreement when not living together, if they conclude an agreement on joint exercise of parental right and if the court assesses that this agreement is in the child's best interest. Only in accordance with the Court's decision or agreement between parents for which the Court assesses that is in the child's best interest, the parental right shall be exercised by one parent.

122. With reference to the Family Law, parents have the rights and obligations to take care of the child in the manner that they shall personally take care of his/her life and health. Parents are not allowed to bring a child into a degrading position and punish him/her in a way that violates human dignity of the child and they are obliged to protect their child from such actions taken by some other persons. Parents are not allowed to leave without supervision a preschool-age child. Parents may temporarily entrust another person with a child only in the case that this person meets the guardianship conditions (art. 70).

123. In addition, parents have the duty to provide the child with compulsory education, to represent him/her in legal affairs and proceedings, to support him/her and manage with his/her property.

124. In accordance with article 80, the guardianship authority is responsible for providing parents with appropriate kind of assistance and taking necessary measures to protect the rights and best interests of the child, based on its immediate cognition or notification. If it is required by justifiable reasons of the child, the guardianship authority shall warn the parents about faults and omissions in education and upbringing of the child and help them bring up their child in a proper manner, and it also may address them to the counselling centre, alone or with a child, or to the health, social, education or other relevant institution.

125. If parents require long-term assistance and instruction in performing parental rights and obligations or an immediate monitoring of the living circumstances and conditions of the child, in order to protect the welfare of the child, the Family Law stipulates that the guardianship authority shall appoint the supervision with respect to the exercise of parental rights against children or against the specific child (art. 82).

126. In justifiable cases, the guardianship authority may request from the parents to report on the management of the child's property. Also, to protect the child's rights the guardianship authority may ask that the Court, in the non-litigious proceedings, permits imposing the security instruments on parental property, and also, to protect the property rights of the child, it may ask that the parents, in managing the child's property, have the role of the guardians (art. 84).

127. The Family Law, as it was previously stated, stipulates that a child who is capable of forming his/her own views has the right to free expression of those views. The competent authority shall determine child's view in an informal communication carried out in an appropriate place, in cooperation with the school psychologist or guardianship authority, family counselling office or other institution specialized in mediation in family relations, or in the presence of the person the child has chosen by himself/herself (art. 67).

3. Separation from parents (art. 9)

128. The Family Law stipulates that children have the right to live with their parents and be taken care of primarily by the parents. The right of a child to live with his/her parents may only be limited by the courts decision when it is in the best interest of the child. The Court may make the decision on the separation from the parents of a child if there are reasons for limitation or deprivation of the parental right or in case of the family violence. Any child who has attained 15 years of age and who is mentally competent may decide about the parent s/he will live with (art. 62).

129. A child has the right to maintain personal relations with the parent s/he does not live with (art. 63, para. 1). The right of the child to maintain personal relations with the parent s/he does not live with may only be limited by court decision if it is in the best interest of the child.

130. A parent who does not exercise the parental right has the right and duty to support the child, to maintain personal relations with the child and to decide about the issues, which have significant impact on the life of the child together and in agreement with the parent who performs the parental right (art. 79, para. 3). In terms of this law, the issues, which have a significant impact on the child's life in particular imply: education of the child, medical interventions carried out on the child, change of the place of residence and management with the valuable property of the child (art. 79, para. 4).

131. Pursuant to the Family Law, the Court is exclusively competent for the child's separation from his/her parents, while taking into account preventive and consultative role of the guardianship authority. Prior to the decision-making about the protection of the rights of the child or on the exercise of the parental right, the court shall ask for expert opinion of the guardianship authority, the family counselling centre or other specialized institution (art. 361).

132. In non-litigious procedure, the court may, as per the official duty or upon the request of the parents, or guardian or other person entrusted to take care of the child and him/her upbringing and the guardianship authority, make the decision on addressing the child to an appropriate institution or another family for education, if the behaviour of the child has been changed and requires an organized educational influence and separation from the environment s/he lives in. The Court shall determine the duration of this measure, which may not exceed one year (art. 83).

133. The guardianship authority shall be obliged to provide parents with appropriate forms of assistance and support and take necessary measures to protect the rights and the best interest of the child, on the basis of immediate cognition or notification. Judicial and other authorities, health, education and other institutions, non-governmental organizations and citizens are obliged to inform the guardianship authority as soon as they find that the parent is not capable of exercising the parental right. The guardianship authority shall immediately upon the receipt of the notification examine this case and take necessary measure to protect the rights of the child (art. 80).

134. By the decision made in the non-litigious procedure the court may restrict the parental right for the parent who unconscientiously performs the rights and obligations against a child. Restriction of the parental rights may deprive the parent of one or more right and obligations against a child, except from the duty to support the child. The Court shall deprive the parent from the right to live with the child if the parent neglect upbringing and education of the child to a great extent or if, due to the family circumstances, there will be a danger for the proper upbringing of the child (art. 85).

135. The parent shall be deemed to neglect the upbringing and education of the child to a great extent in particular if s/he does not take sufficient care of the child's nutrition, hygiene, clothing, medical assistance, regular school attendance, or if fails to prevent the child from harmful company, stroll, begging or robbery. The procedure for restricting parental right shall be initiated as per official duty, on the proposal of the guardianship authority, another parent or a child.

136. The parent who abuses parental duties or roughly neglect parental responsibilities shall be deprived of the parental right. The abuse of the rights in particular exists if a parent performs physical, sexual or emotional abuse against a child; exploits a child coercing him/her to unreasonable work or to work which imperils moral, health or education of the child, i.e. illegal work; encourages the child to commit criminal offences; develops bad practice and predisposition and the like.

137. Rough neglect of the child especially exists if a parent: leaves the child or does not take care about basic needs of the child s/he lives with at all; avoids to provide support or to maintain personal relations with the child s/he does not live with, or forbid maintenance of

personal relations of the child and the parent that the child does not live with; if purposely and unjustifiably avoids to create conditions for joint life with the child being placed in the institution for social and child protection. The parent may be deprived of the parental right with respect to all children or with respect to a specific child if this is required by special conditions (art. 87).

138. Decision on the deprivation of parental right shall be made by the competent court in the non-litigious procedure. The procedure for deprivation of the parental right may be initiated by another parent, guardianship authority or the Public Prosecutor.

139. According to the data from the Social Welfare Centres, in 2007 the competent court in the non-litigious procedure deprived one parent from the parental rights with respect to one child, on the proposal of the team for protection of children from abuse and neglect.

4. Illegal transfer and non-return of children from abroad (art. 11)

140. In case of illicit transfer and non-return of children from abroad, which may be classified as a violation of the right to custody of children, or violation of the visiting rights (personal relations), the provisions of the Convention on Civil Law Aspects of International Abductions of Children apply. The central executive authority for the implementation of the Convention is the Ministry of Justice. That Ministry receives from abroad and dispatches to central authorities of other State parties requests for return of children illicitly separated from their parents or persons having parental responsibility.

141. The procedure of returning an illicitly brought child is conducted by applying the provisions the Law on Resolving the Conflicts of the Laws with the Regulations of Other Countries in Certain Relations. This Law regulates the conditions and procedure of recognition of foreign court decisions, including decisions on child custody, if they have become legally binding according to the law of the country in which they have been made. By a domestic court's recognition of the foreign decision on child custody, this decision is made equal with the domestic court decision and may be enforced.

142. Montenegro has also ratified the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Montenegro has also signed a series of bilateral agreements on legal assistance between judicial and other competent authorities or state, in executing decisions related to the care of the child, which should contribute to more efficient protection of children who are illegally separated from the parents.

143. The Criminal Code prescribes depriving of a juvenile as one of the criminal offences (art. 217). Anyone who unlawfully keeps a juvenile separated from or deprives a juvenile from his/her parents, adoptive parent, guardian, other person or an institution, s/he has been entrusted with, or prevents execution of the decision according to which a juvenile has been entrusted with a particular person, shall be punished by a fine or an imprisonment sentence not exceeding two years. It is also said that the prevention of the execution of a decision of a competent body, stipulating the way in which personal relationships between a juvenile and his/her parent or another relative are to be maintained shall be sentenced.

144. According to the data received from the Ministry of Justice, in the reporting period there was no criminal offence of depriving a juvenile referred to in article 217 of the Criminal Code.

5. Child support (art. 27, para. 4)

145. Pursuant to the Family Law, the parents shall unconditionally be obliged to support their minor children. According to their financial possibilities they shall also be obliged to support their major children until they complete their education in the school or faculty or, if education is prolonged for some justifiable reasons, not later than they attain 26 years of age (art. 259).

146. If a child, upon the age of maturity, due to disease, physical or mental deficiencies is not capable of performing a job, or has no resources to support on his/her own or may not obtain the resources from his/her existing property, the parents shall be obliged to support him/her until these conditions end (art. 256). The parent who was deprived of the parental right shall not be relieved from the right to support his/her children (art. 272). Obligations of the family members who are obliged to provide the support shall be determined proportionally to their possibilities, within the limits of the needs of the claimant of support. If the parent does not ask for execution of the support decision, the guardianship authority shall, on behalf of a minor child, submit to the court the proposal for decision execution, as per the provisions on the Law on Execution of Procedure.

147. The Court is obliged to submit to the guardianship authority any decision on the support of the child. If the parent, who is obliged, according to the court decision to pay certain amount of funds to support his/her child, fails to regularly perform his/her duty, the guardianship authority shall, on the proposal of another parent or as per the official duty, take necessary measure to provide the child with temporary support in accordance with social and child protection regulations until the parent start to fulfil his/her obligation (art. 282). If the amount of support is determined in percentage, it may not be less than 15 per cent nor more than 50 per cent of regular monthly income of the debtor (art. 281, para. 3).

148. Criminal legal protection is also provided. The Criminal Code stipulates penalisation of the avoidance of the payment of support through the criminal offence – omission of the payment of support. The perpetrator is anyone who does not give support to other person s/he is obliged to maintain according to law on the basis of a finally binding court decision or executive settlement before a court of law or other authorized body, to the amount and in the manner determined by the decision or the settlement (art. 221).

149. Within their competence, the Social Welfare Centres try to provide assistance to each child in exercising his/her right to support, especially when it comes to the support to be provided by the parents living outside the territory of our country. Intermediary authorities for the support of the child by the parent who lives abroad shall be the Ministry of Health, Labour and Social Welfare and the Ministry of Foreign Affairs.

6. Family reunification (art. 10)

150. The rights of the child and parent who are domestic citizens to exit the country and re-enter it for the purpose of maintaining family connections (uniting with the family) is regulated by the Law on Travel Documents, and the rights of the child and parent who are aliens, stateless persons or refugees is regulated by the Law on Alien Movement and Stay.

151. The freedom of movement and settlement and the right to exit the territory of our country, irrespective of whether it regards domestic citizens, refugees, stateless persons or aliens, are subject only to legal restrictions in the cases referred to in article 37, paragraphs 1 and 2, of the Charter on Human and Minority Rights and Civil Liberties and article 28 of the Constitution of Montenegro. These rights may be restricted only if it is necessary to conduct criminal proceedings or for the country's defence.

152. Article 17 of the Law on Travel Documents stipulates that a passport shall be issued with the validity period of 10 years and, exceptionally, a passport may be issued to a child up to four years of age with the validity period of two years.

153. Pursuant to the above-mentioned law, the request is submitted for a juvenile younger than 18 by one of the parents along with the written consent of another parent or legal representative (art. 26, para. 3).

154. The provisions of the Law on Alien Movement and Stay apply in relation to the right of a child or a parent who are foreign citizens to enter the territory of the country and stay in it. The conditions for admission of aliens into the territory of our country are contained in the provisions of articles 5, 25 and 26 of that Law. An alien may enter the country and stay in its territory if he/she has a valid national passport or other appropriate travel document recognized by the country; a mandatory visa for citizens of those countries with which visa abolishment agreements have not been concluded and if s/he possesses enough funds to support himself/herself during the period of stay, or that he/she may in another way be provided with funds.

155. A refugee passport or passport for persons without citizenship provided for by international agreements is issued for travelling abroad to an alien whose refugee status has been recognized in our country, or to a stateless person. These documents are issued with a validity period of up to one year.

156. A refugee passport or passport for persons without citizenship and passports for aliens shall be issued to persons who have attained 18 years. For juveniles of up to 18 years of age, personal data shall be entered into the passport of one of the parents and exceptionally, if there are justifiable reasons, a passport may be issued to a juvenile up to 18 years of age.

157. According to the data from the Ministry of Interior Affairs, during 2006 there were 19,823 passports and 1665 visas issued in Montenegro and 1,009 entries of personal data of children in to the passports of the parents were made. In 2006, the software for passport issuance was installed in the Ministry of Interior Affairs, which contributes to a reduction of the period of waiting and simplification of the procedure.

7. Children deprived of family environment (art. 20)

158. The legal basis for organizing special care of children without parental care exists in the Family Law and the Law on Social and Child Protection. In accordance with the provisions of both laws, a child without parental care is a child whose parents are not alive, a child whose parents are unknown or whose parents' place of residence is unknown, and a child whose parents are completely deprived of the parental right or legal capacity.

159. The first protective measure is to place under guardianship the child who is without parental care. The purpose of placing the child under guardianship is to enable a child for independent life and work by providing him/her appropriate care and education (arts. 178 and 179). On determining guardian, the guardianship authority shall carefully examine all circumstances of the person to be guarded and appoint for a guardian the person who will be able, considering those circumstances, to fulfil the guardianship duty in the best way (art. 188).

160. Basic forms of family-law care of the children without parental care, in accordance with the Family Law, imply: adoption and foster placement. Apart from the foster placement of children, the Law on Social and Child Protection provides also for the right to the placement in another family or social protection institution, and that the priority shall be given to the placement in another family. Regarding the selection of the appropriate form of

care of children without parental care, a comprehensive consideration of each individual case is provided for by law, so that the solution for each individual child would be in accordance with his/her needs.

161. The most frequent reasons for absence of parental care, according to the records of social welfare centres are: abandonment of children by parents, disease or death of parents.

162. In practice, social and family law care of children without parental care in our conditions is most frequently realized by family placement, by accommodating children in homes, and by adoption.

163. A child without parental care whose development is impeded by his/her own family circumstances may be placed in another family for care and education, in accordance and manner stipulated by the Family Law (art. 157, para. 1). Decision on the placement in another family shall be made by the guardianship authority if this is in the best interest of the child (art. 158). A child may be placed in the family, which accepts to receive that child and ensure the quality care and education for him/her. The family where the child shall be placed should have safe housing and material conditions (art. 159). On placing a child in another family the guardianship authority shall be obliged to pay special attention to national, religious and cultural origin of the child, as well as his/her age, health and social status and distance from the child's previous place of residence or place of residence of his/her parents and school that s/he attends (art. 160).

164. If the child is impeded in psychophysical development or is neglected in terms of education, s/he may be placed in another family only in the case that it is determined that members of the respective family are capable, as per their personal characteristics, to take care of and educate such a child (art. 161).

165. Foster person, or person in whose family a child is to be placed (hereinafter referred to as "foster parent") may be any adult and legally capable person, who is able, considering personal peculiarities and harmony in the family, to ensure the balanced development and help child to return to his/her own family. The guardianship authority shall be obliged to provide the foster parent with appropriate preparatory assistance in upbringing and education of the child and also to provide the child with special curricula in accordance with his/her needs (art. 162). As a rule, brothers and sisters are placed in the same family (art. 163). When a child is under guardianship, the consent shall be given by his/her guardian (art. 164).

166. There are 250 children placed in another family in Montenegro. This mostly relates to the placement with relatives and almost there is no placement in the family, which is not congenial. The law stipulates the exercise of rights to cash compensation for family placement, so as the right to special compensation for the family, which provides the placement. The amount of the compensation is currently 187 Euros, which is the accommodation price to be paid to the institution for social protection to accommodate children without parental care. The amount of the compensation for the placement family is 30 per cent of the accommodation price. Besides, a child without parental care shall exercise the right to child allowance in the amount of 27.5 Euros. These children have school textbooks free of charge as well as free vacation and recreation in summer and winter period. Families, which provide accommodation for children, are given subsidies for electricity. Also, these children are provided with one-time cash benefits to pay the cost for their school excursions.

167. Placement in the institution for social and child protection is not so present as family placement. This form of placement is carried out through the competent social welfare centres in accordance with the Law on Social and Child Protection and the Family Law.

168. Children without parental care and children whose development is impeded by family circumstances are provided with accommodations in the Child Home “Mladost” in Bijela. Number of children in the Child Home varies. In January 2007 there were 166 children, while in December 2007 there were 150 children.

169. Children without parental care who are placed in the institution and who attend schools are provided with free textbooks. These children also exercise the right to free vacation and recreation. In addition, the children are provided with certain funds for school excursions and school-leaving parties. Children who were placed in institution, who continue education in high education institutions are provided with school fees and accommodations.

8. Adoption (art. 21)

170. Pursuant to the Family Law, adoption is a special form of the family-law protection of children without parental care or without appropriate parental care, in which parental or congenial relations are established. In Montenegro, adoption may be established as complete or incomplete (art. 121). A child has the right to know that s/he was adopted. Adopting persons shall be obliged to inform the child that s/he was adopted at latest until s/he attains 7 years, or immediately upon adoption if adopted child is older than 7, as well as to inform the guardianship authority (art. 122). Adoption may be established only if it is in the best interest of the adoptee (art. 123).

171. A child under three months may not be adopted, neither may be adopted a child of juveniles. Exceptionally, the later child over one year may be adopted if his/her upbringing doesn't seem to be carried out in the parental environment or in the family of close relatives.

172. A child whose parents are not known may be adopted only upon the expiration of three months of his/her abandonment (art. 124). Only a person who is over thirty and less than 50 may adopt a child, who is at least 18 years younger than adopting person. Adopting persons who commonly adopt the same child shall also be eligible to adopt a child in case that only one of them meets the required conditions. If there are justifiable reasons, an adopting person may be a person over 50, but the age difference between the adoptee and adopting person must not be more than 50 years. If adopting persons adopt children who are brothers and sisters, or sisters and brothers on the mother's or father's side they shall also be eligible if one of them meets the conditions with respect to the years related to only one child (art. 126).

173. Complete adoption may be established with a child up to 10 years of age. Complete adoption may be established by couples, or foster mother or foster father of the child to be adopted. Extramarital partners who live in extramarital community for a longer period of time are also eligible to completely adopt a child (arts. 131 and 32).

174. Incomplete adoption may be established with a child up to 18 years of age. Consent of the child older than 10 who is mentally capable of understanding of the importance of adoption shall be required for adoption. Incomplete adoption may be established by marital couples, one spouse with the consent of another and foster mother or foster father of the child to be adopted. A person who is not married or extramarital partners who live in extramarital community for a short period of time are eligible to establish incomplete adoption of the child if there are specially justifiable reasons for that (arts. 133 and 134).

175. Conduction of the adoption procedure shall be in the competence of the guardianship authority of the place of residence or the dwelling place of the child if his/her place of residence may not be determined. In the adoption procedure, the public shall be excluded.

176. In the adoption procedure, a parent of the child, a spouse of the adopting person and a child shall give their consent before the guardianship authority, which conducts the procedure or before the guardianship authority of their place of residence, or the dwelling place if the place of residence may not be determined. If the consent is given before the authority, which is not in charge of the adoption procedure, this authority shall submit the verified records to the authority competent for adoption procedure. A child gives his/her consent in the absence of parents and adopting person. A parent may give his/her consent for adoption prior to the initiation of adoption procedure only if a child is over three months.

177. The guardianship authority shall introduce a parent, before s/he gives the consent for adoption, with legal consequences of his/her consent and adoption. In the adoption procedure, the guardianship authority shall introduce the parents of the child, adopting persons and a child over 10, with legal consequences of adoption. Prior to decision-making on the establishment of adoption, the guardianship authority may decide to place the child in the family of future adopting persons for the period of six months without compensation, except in the case that the adopting person is a foreign citizen. During the placement period, the child shall be under special supervision of the guardianship authority in order to determine if adoption is in his/her best interest.

178. The guardianship authority maintains records and keeps documentation on children adoption. Data on the adoption shall be deemed official secret. An adult adoptee, an adopting person and a parent of the adoptee, who gave the consent for the child to be adopted by foster mother or foster father, shall be allowed to have insight into adoption documentation. The guardianship authority shall also allow a juvenile adoptee to have insight into adoption documentation if assessing that it is in his/her interest.

179. Complete adoption established between adopting persons and his/her relatives on one side and adoptee and his/her offspring in another makes unbreakable kinship equal to blood kinship. Adopting persons are entered in the Birth Registry Book as the parents of the adoptee. Complete adoption shall terminate mutual rights and obligations between adoptee and his/her blood relatives, except in case that the child is adopted by foster mother or foster father. Adopting persons shall agree about name of the adoptee. The adoptee shall take the same surname of adopting persons. If adopting persons do not have the same surname, they shall agree about the surname of the adoptee. If adopting persons fail to reach the agreement, the name and surname of adoptee shall be determined by the guardianship authority. Denial and determination of maternity and paternity shall not be allowed upon establishment of the complete adoption.

180. Incomplete adoption creates between adopting persons on one side and adoptee and his/her offspring in another, rights and obligations which legally exist between parents and children, unless it is otherwise determined by the law. Incomplete adoption shall not influence right and obligations of the adoptee in relation to their parents and other relatives (arts. 135–153).

181. Adoption between foreign citizen as an adopting person and domestic citizen as an adoptee may not be established. Exceptionally, a foreign citizen may adopt a child if adopting person may not be found among domestic citizens. This adoption shall require consent of the ministry competent for social welfare issues. Consent for adoption shall be issued on the basis of the expert commission findings. The expert commission shall be established by minister competent for social welfare. The commission shall be comprised of five members with professional experiences in the work with juveniles (art. 125).

182. The number of adopted children in Montenegro is not so large. The table below shows the number of adopted children in the last two years.

<i>Year</i>	<i>No. of adopted children</i>	<i>Sex</i> <i>M</i>	<i>F</i>	<i>Domestic</i>	<i>Foreign</i>
2006	12	4	8	3	9
2007	5	3	2	3	2

183. Aiming at raising quality of work of professionals, continuing educations were organised related to acquiring knowledge and skills with respect to assessment and preparation of future adopting and foster persons. These educations comprised around 100 professional from social welfare centres and institutions for social and child protection. They were financed by Swedish International Development Association (SIDA).

9. Illegal transfer of children across borders and non-return to their country of origin (art. 11)

184. Montenegro is a party to the Convention on the Civil Aspects of International Child Abductions. The competent line authority for the implementation of this convention is the Ministry of Justice, which acts upon requests of our citizens when the child is abroad and upon requests of aliens if the child is in our country.

185. Preventing the enforcement of the decision of the competent authority by which the manner of maintaining personal relations of a juvenile with a parent or other relative is determined is deemed a criminal offence pursuant to article 217 of the Criminal Code and sanctioned by a fine or up to one year's imprisonment.

186. In accordance with the Law on Resolving the Conflicts of the Laws with the Regulations of Other Countries in Certain Relations, valid decisions according to the law of the other State in which they have been made are recognized under certain conditions. These court decisions are made equal to decisions of domestic courts.

187. In the reporting period, according to the data from the Ministry of Internal Affairs, there was no committed criminal offence of taking the child away from his/her parents contrary to the court decision on custody of children.

10. Protection of children against abuse and neglect (art. 19)

188. Measures for protection of the child against violence are established by criminal and family legislation and therefore certain forms of violent behaviour of parents entail dual responsibility.

189. The Family Law prescribes that judicial and other authorities, health, education and other institutions, non-governmental organizations and citizens shall be obliged to inform the guardianship authority as soon as they find that the parent is not capable of exercising the parental right. The guardianship authority shall immediately upon the receipt of the notification examine this case and take necessary measure to protect the rights of the child (art. 80, paras. 2 and 3).

190. If it is required by justifiable reasons of the child, the guardianship authority shall warn the parents about faults and omissions in education and upbringing of the child and help them bring up their child in a proper manner, and it also may address them to the counselling centre, alone or with a child, or to the health, social, education or other relevant institution (art. 81).

191. If parents need long-term assistance, the guardianship authority shall order the surveillance over the exercise of parental rights and appoint a person to follow development of the child and take all necessary measures in the best interests of the child (art. 82).

192. The Court may restrict parental right to a parent who unconsciously performs rights and obligations related to the child (art. 85). In addition, the parent who abuses parental duties or roughly neglect parental responsibilities shall be deprived of the parental right by the Court.

193. Criminal Code prescribes criminal responsibility for the criminal offence – violence in a family or a family community (art. 220). A more indictable offence refers to a person who by use of violence or endangers physical integrity or mental condition of a juvenile.

194. Protection of the rights of the children from abuse and neglect is carried out by social welfare centres. Multidisciplinary operational teams have been established in cooperation with UNICEF and UNHCR in 7 out of 10 social welfare centres. The National Plan of Action for Children until 2010 envisages establishment of multidisciplinary teams in the remaining three social welfare centres in the municipalities of Plav, Pljevlja and Rožaje. For the time being, 908 children have been protected from abuse and neglect by these teams.

195. Multidisciplinary teams are comprised of professionals in the areas of social protection, health, judiciary and prosecution service, police, education and NGO sector. Aiming at raising the quality of work of these teams the continuing education of professionals in each area is carried out as a kind of regular supervision. For the time being, 350 professionals have been educated. This model proved to be successful, which is also shown by the evaluation of the Project carried out by UNICEF.

11. Periodic review of placement (art. 25)

196. Periodic review of placement shall be carried out in accordance with the family Law, Law on Child and Social Protection and the Law on Criminal Procedure. The review of placement of children in educational and correctional institutions and prisons shall be carried out by the Protector of Human Rights and Freedoms.

197. In accordance with the family Law, a family where a juvenile was placed shall be obliged to provide guardian with information about all circumstances important for development of the child, especially on his/her health, education and schooling (art. 168). The guardianship authority shall follow development of children placed in other families and determine whether their upbringings, education and schooling are realized in accordance with provisions of this law and the contract on accommodation. The guardianship authority shall be obliged to warn the family where the child was placed on the deficiencies related to upbringing, care and education of the juvenile, to propose measures for their removal, to give advises on all issues, or to take necessary measures that it is legally authorised for (art. 173). Social Welfare Centres shall be obliged to regularly monitor implementation of measures related to the placement of the beneficiaries. To that end, they shall be obliged, according to the instructions of the authority competent for social protection, to review individual protection plans twice a year.

198. The administration of the institution in which the corrective measure is being executed against a juvenile shall be bound every six months to submit a report on his/her behaviour to the Court that pronounced the measure. The judge for juveniles of that Court may visit juveniles placed in the institution, as well. The judge for juveniles may — through a juvenile welfare authority — obtain information regarding the execution of other corrective measures, or may order an expert (social worker, teacher of the handicapped, etc.) if available at the Court to do so (art. 505).

199. The Law also prescribes periodic review of justification of the measures pronounced to a juvenile.

200. Every nine months, the Court that pronounced security measure shall, by virtue of an office, review whether the treatment and confinement in a medical institution are still necessary. The medical institution, the juvenile welfare authority and person against whom the security measure is imposed may submit the request to that Court to take decision on discontinuance of the measure (art. 535).

201. In accordance with the Law on Execution of the Criminal Sanctions, at the request of the court and earlier, the institution where a juvenile to whom an institutional measure had been pronounced was referred to, shall be obliged to inform the court and social welfare authority, twice a year, on the effect of the appliance of this institutional measure (art. 146).

VI. Basic health care and social care

1. Child health care (art. 24)

202. The Constitution of Montenegro guarantees health protection to everyone, pursuant to the law. Children, pregnant women and elderly have the right to health care from public revenues, if they do not exercise this right on some other grounds.

203. Law on Health Insurance (art. 12) proscribes that a child is entitled to mandatory health insurance, until termination of compulsory education, and if the child attends regular or part-time education, then the entitlement lasts until the deadline envisaged for regular education elapses, but not later than the age of 26. The child, who has interrupted education due to an illness, shall be entitled to mandatory health insurance during such illness, and if the child continues education, he/she shall be entitled to mandatory health insurance even after the prescribed age limit has elapsed, but not longer than the period of interruption of education lasted, due to the illness. If the child becomes incapable for independent living and work, in terms of specific regulations, before the deadline for regular education (before the age of 15) he/she shall be entitled to mandatory health insurance during such incapability. The right to mandatory insurance is entitled to a child who shall become permanently incapable for independent living and work in terms of specific regulations after the prescribed age (before the age of 15), if he/she does not have his/her own income. The right to mandatory health insurance includes children born in or out of wedlock, adopted children, step-children and foster children (art. 10).

204. The Law on Health Protection proscribes, as its priority health protection measures (art. 10, paras. 7 and 11), health care of children and adolescents until the end of prescribed formal education, protection of women in relation to family planning, pregnancy, giving birth, and maternity, so as health care of physically and mentally disabled persons. The primary health care includes the health protection of mothers and children and family planning, so as the rehabilitation of children and young people with disorders in physical development and health (art. 33, paras. 5 and 15).

205. The Law on Health Protection of Herbs in Article 2 states that the activity of health protection of herbs includes, among other things, the environment protection from consequences of harmful organisms.

206. Infant and child mortality up to five years of life are sensitive indicators of the quality of health care of women and children but also of the socio-economic characteristics of the community.

207. Infant mortality at national level has had a trend of reduction from the fifties. In 2006 the infant mortality rate was 11.0 and in 2007 7.4 per thousand of births.
208. During 2006, 7,551 children were born, of which 7,531 live-born, 83 infants died, of which 41 males and 42 females. During 2007, 7,856 children were born, of which 7834 live-born, 58 infants died, of which 36 males and 22 females.
209. Perinatal mortality rate (0–6 days) in 2006 at national level was 7.28 (35 out of 83 infant deaths or 42.2 per cent). Neonatal mortality rate (0–27 days) in the same period was 8.2 (62 or 74.7 per cent of infant deaths).
210. Perinatal mortality rate (0–6 days) in 2007 at national level was 5.09 (18 out of 58 infant deaths or 31 per cent). Neonatal mortality rate (0–27 days) in the same period was 4.98 (39 or 67.2 per cent of infant deaths).
211. Post-neonatal mortality (from the twenty-eighth day until the first birthday) in 2006 was 2.8 (21 deaths or 25.1 per cent).
212. Post-neonatal mortality (from the twenty-eighth day until the first birthday) in 2007 was 2.4 (19 deaths or 32.8 per cent).
213. It is well known that environmental factors (nutrition, infant hygiene, parents' education on hygiene, nutrition, environmental risks) have an important role on the health condition. Most of deaths in the post-neonatal phase can be prevented by adequate medicine assistance. Infant mortality rate is correlated with national revenues per capita, what confirms the correlation with socio-economic development and differences among municipalities.
214. Infant deaths in Montenegro are the most frequent (42.2 per cent in 2006 and 31 per cent in 2007) in perinatal period – in the first six days of life. Perinatal mortality is under the influence of endogenous factors that can not be influenced considerably but under the influence of quality and timely provision of health services to mother and child. Their improvement would lead to the planned reduction of infant mortality rate.
215. Infant mortality rate under the age of 5 amounts to 12.1 for 2006 and 8.7 for 2007 (source: *Statistical Yearbook, MNE 2008 /draft material/*, p. 19). A two-year-long monitoring period does not provide a possibility of trend assessment.
216. Primary health care is defined as a priority in all strategic documents in Montenegro. From the mid 2005 a pilot-project the "Chosen Physician" has been introduced in Podgorica and its introduction is expected in the rest of the country. According to the Report of the NPA Implementation Commission for Child Rights, children care, such as the "chosen physician" is mostly provided by a paediatrician, but there are cases where parents have chosen a general practice physician for their children. Experts suggest that children up to 15 years old and adolescents up to 18 years old are followed by paediatricians, in order to maintain the highest possible level of health services (NPA Commission).
217. Available data have been given for the municipality of Podgorica separately from the rest of the national territory, so they can be interpreted only that way.
218. According to available health statistic data in primary health care of pre-school children in Montenegro (without Podgorica) in 2006, in 21 ambulance-points there were 49 physicians, 1 physician per 802 insured person (prescribed normative 1,200 of children up to 6 years old per one medical specialist), that have realized 5,032 check-ups per physician and 6.2 check-ups per insured person, from 9,614 check-ups in Budva to 1,227 in Plav, what indicates territorial inequality in accessibility.
219. The health care service of school children, youth and students in 20 ambulance-points (without Podgorica) has disposed of 31 physicians (25 paediatricians and 6 others).

During the year 225,928 check-ups have been registered (without Podgorica) or 7,288 check-ups per physician or 3.3 check-ups per every insured child and on average 9,669 have been realized per physician. It is possible to perceive a certain inequality through local communities from 18,001 in Herceg Novi to 2,399 in Žabljak. On average, 1 physician is provided on 2,239 insured persons, the prescribed normative is 2,200 of school children per one medical specialist.

220. In the health care of children up to 15 years old in Podgorica have been working 26 physicians which had 8,034 check-ups per physician (in 2005 – 9,637), one physician per 1571 (in 2005 – 1,319) insured persons or 5.1 check-ups per insured person. (Source: Data from “Health Care Programme Evaluation for 2006”, Public Health Institute of Montenegro).

221. In the Health Centre, Podgorica is still operating the Centre for Mental Health and Treatment, counselling and assistance to young people with mental disorders. This kind of service is not available in other parts of the country.

222. In the Health Centre, Podgorica, in November 2006 the Centre for Disabled Children has started to work, and in 2006 there were 600 disabled children recorded up to 15 years old (to November 2007 – 940 personal health records). The scope of work of the Centre is: early detection of babies at risk (premature, weight under 2,500 g, older mothers, twins, maintaining the pregnancy etc. and their follow-up until the age of 1; children with specific diseases and developmental disorders — registration, suitable treatment — team medical work and monitoring of health condition; organization of the population counselling for children with chronic diseases, nutrition disorders, violation and negligence, malign and other disease).

223. Current problems are: inadequate space and equipment, insufficient time of engaged experts, children over 15 years old and their parents are not included in counselling work of the Centre. Activities have been undertaken to solve this problem and expand the activities throughout the state.

224. The way and quality of child nutrition, physical development and nourishment can not be monitor continuously because of the lack of data and relevant researches. The available date from the mix-survey (UNICEF, MONSTAT) done at the end of 2005 on the representative sample. According to the preliminary – informal results have shown that some 2.6 per cent of children under the age of 5 in Montenegro are moderately malnourished and some 0.7 per cent is very malnourished. Insufficient weight compared to the height has been registered in some 3 per cent of children and overweight in 12.9 per cent of surveyed children. The healthiest way of infant feeding is lactation. According to available data the situation is not satisfactory. Children under 5 months are exclusively breast-fed in just 19.3 per cent of cases. Children of 6–9 months are breast-fed, with other food, in 35.5 per cent of cases and children of 12–15 months are breast-fed in 24.6 per cent of cases. According to preliminary data (not published yet) systematic check-ups of children in elementary and high schools, insufficient physical development has been recorded in 442 boys and 360 girls, and malnourishment in 2,053 boys and 1,597 girls. Bad physical hygiene of school children has been recorded in 138 boys and 168 girls.

225. In the health care centres for women during 2006 in 21 points with 26 physicians (without Podgorica, where the model “chosen physician” has been in force since mid 2006), 70,779 check-ups were performed or 0.46 check-ups per women older than 13 years and 2,722 check-ups per physician. On average, there are 5,942 insured women per 1 engaged physician. As in previous years, the evaluation of health-care programmes has assessed that the number of check-ups was insufficient comparing to Population Health Care Programme for 2006.

226. The health care coverage of women in labour is almost total. During and related to delivery there were no death cases of women in 2006. Out of the total number of childbearing women in 2006 there were 4.3 per cent of them under the age of 19, showing the tendency to decrease. Premature deliveries in the same year amounted to 5.5 per cent of the total number of births. Some 4.7 per cent of children were born with body weight under 2,500 g. The share that is lower than 4 per cent means that the indicator has a very low value (data obtained from the health service statistics of the PHI).

227. Educational activity of children and parents is conducted through preventive health programmes. Within the National Plan of Action for Children in Montenegro the following activities have been introduced: diagnostics and treatment promotion; improved care of children with developmental disorders, PAS misuse prevention; development of healthy lifestyles and knowledge about reproductive health, sexuality, healthy food and so on.

228. National Strategy of Mental Health Care programmes provide for the prevention, education of experts and preparation for opening of planned counselling centres at national level.

229. The counselling centre for HIV/AIDS, within the Public Health Institute during 2006, has been visited by 157 persons out of which 76 per cent of men and 24 per cent women. Some 80.1 per cent of individuals asked for testing and counselling and 19 per cent just counselling. The Central region represented with 84 per cent and the Northern with only 2 per cent. During 2007 some 164 persons visited the counselling centre, out of which 73.2 per cent were men and 26.8 per cent women. Some 81.1 per cent of individuals asked for testing and counselling and 18.9 per cent just counselling. Some 36.6 per cent out of the total number were visitors under the age of 25.

230. The Centre for Reproductive Health in Berane, in the north of Montenegro, during 2006 was visited by 597 persons of 18 years old and younger for check-ups and counselling. The Counselling Centre for Adolescence and Pregnant Women, which is operating within the Centre, has been visited by 1017 persons, and educational lecturers included 99 high-school children. Such a big interest indicates the need and insufficient accessibility throughout Montenegro.

231. Obligatory immunization of children, as an important indicator of preventive measures, during 2006, was conducted with coverage of 91.8 per cent to 98.4 per cent, (table below). Revaccinations have been realized with coverage of 90.5% to 98.9% at national level.

Coverage of children with obligatory immunization per type of vaccine

<i>Type of vaccine</i>	<i>2006 %</i>	<i>2007 %</i>
TBC	98.4	98.2
Diphtheria, tetanus, pertussis	92.8	93.1
Child paralysis	92.9	93.2
Chickenpox, mumps, measles	91.8	91.6
Hepatitis B	92.5	91.6

Source: Report on Immunization Implementation in the Republic of Montenegro in 2004, 2005 and 2006. Centre for Disease Prevention and Control PHI MNE and Health Care Programme Evaluation in Montenegro in 2007, pp. 6–8.

232. During 2006 has been introduced the obligatory systematic immunization of children up to 5 years of age with Hib vaccine (*Haemophilus influenzae B*). Coverage for children born from 2000–2004 amounts from 75.3 to 92.4 per cent.

233. Clean potable water used for drinking, food preparation and maintaining personal hygiene is one of basic conditions for health preservation or one of twelve basic health care indicators of population of one country. The indicator of the condition within the water-management and sewage is the infant mortality under five years of age caused by diarrhoea.

234. Montenegro is a region which disposes of significant quantities of water of good quality. Continuous efforts are being invested for preservation of this natural resource and prevention of pollution of surface and ground waters. Accessibility of water to households is improving along with the activities that have been undertaken for the provision of appropriate quality.

235. During 2003 (according to the Census), 87.7 per cent of institutions were equipped with water-supply installations. Water-supply installations have had some 98.4 per cent of apartments in urban and 71.3% apartments in other settlements (source: Population Census MNE 2003. Book 25, Apartments – Type, Property and Equipment. MONSTAT).

236. Out of the total 4,954 of water samples analysed for physical-chemical and microbiological validity in 2006 per municipality, 7.2 per cent did not meet physical and chemical standards. Of the sample, 13.6 per cent did not meet the microbiological norms of the Rulebook on Hygienic Validity of Potable Water (source: *Statistical Yearbook, MNE 2006*, PHI MNE, Podgorica, 2007, p. 93).

237. During 2003 (according to the Census), 81.4 per cent of apartments had a bathroom, i.e. a separate room with bath-tub or shower-bath with water and sewage installations: 94.9 per cent of apartments in urban and 60.5 per cent of apartments in other settlements. During 2003, 76.4 per cent of apartments had a lavatory in a separate room of an apartment or in the bathroom: 89.6 per cent of apartments in urban and 55.8 per cent of apartments in other settlements had a lavatory (source: *Population Census MNE 2003*. Book 25, Apartments – Type, Property and Equipment MONSTAT).

238. The problem of municipal and other waste was not solved in the satisfactory way, although the efforts have been continuously invested into improvement of the condition – example of the municipality of Podgorica where baths for ground water protection from waste. Safe disposal of medical waste has been set as a priority by the Ministry of Health, Labour and Social Welfare and activities have been undertaken in order to solve this problem.

2. Children with disabilities (art. 23)

239. The Constitution of Montenegro (art. 68) guarantees special care to persons with disabilities and the Law on Social and Child Protection and corresponding sub-acts establishes the rights for children with developmental disorders and their families.

240. There are no precise data on the number of children with development disorders in Montenegro. Authorities and institutions, so as the NGO sector, providing specific kind of services to children with development disorders are keeping records on their beneficiaries. Strategic documents provides for establishing a unique register of children with developmental disorders.

241. Pursuant to the Law on Social and Child Protection, families with children with developmental disorders and children with developmental disorders shall enjoy the following rights: right to material family support, right to personal disability allowance, right to care and assistance of others, right to accommodation in institution, right to assistance with education of children and adolescents with disabilities, right to health care, right to child allowance and right to leisure and recreation.

242. Health protection of children with developmental disorders, as a part of general health protection of population, is regulated by the Law on Health Protection, the Law on Health Insurance and the Law on Protection and Exercise of the Rights of the Mentally Ill. The right to health protection, among other things, includes the prevention, check-ups and medical treatment, rehabilitation, medicaments and medical means and medical-technical tools.

243. According to the Rulebook on detailed conditions regarding standards, normative and ways of primary health-care realization through the team of chosen physicians or a chosen physician, Daily Centres for children with disabilities have been established which are intended for children under the age of 15. There are three such centres in Montenegro.

244. Education of children with disabilities in Montenegro is regulated by the General Law on Education, the Law on Preschool Education; the Law on Primary Education, the Law on Lyceum; the Law on Vocational Education and the Law on Education of Children with Disabilities.

245. The current education system of children and youth with disabilities is organized in three basic forms: institutions for children with disabilities, separate classes within regular schools, regular school classes. Within first two forms, the system has been organized so to single out the children with the same type of impediment into special schools or special classes. The rest of the children with disabilities or some other sort of special needs are placed in classes of regular schools together with other children, with provided professional assistance. Specialized mobile teams have been organized within the Bureau for Educational Services which imply the engagement of professionals from special institutions and from regular system, which are specialized in inclusive education. They are included into regular school activities where children with disabilities are educated, depending on the type of impediment. The aims of the activity of these teams are as follows: support to children with disabilities, parents, teachers and professional services in schools within which children with disabilities are included. The orientation towards the appropriate model of education is conducted by the Commissions for Orientation that are organized at local level and working in all municipalities in Montenegro. Their task is to recommend the optimal solution for education of the child with special educational needs. The suggestion for orientation is made on the basis of pedagogical, special-pedagogical, psychological and other documentation that they receive from the relevant institutions.

246. There are four specialized institutions for the education of children and youth with disabilities in Montenegro: Institute for Education and Professional Rehabilitation of Children and Young People with Developmental Disorders, with 82 students (48 boys and 34 girls); Centre for Education and Training "1 June", with 156 students (104 boys and 52 girls) – students with simple and moderate disturbances in mental development and autistic students; Institute for Education and Rehabilitation of Persons with Hearing and Speech Impairments in Kotor, with 141 students (60 boys and 81 girls). The Ministry of Education and Science finances the schools, while the Ministry of Health, Labour and Social Welfare finances the cost of accommodation and food.

247. Persons with special needs generated by moderate, serious and severe mental disability are provided residence in the Special Institute for Children and Youth "Komanski most" in Podgorica. This institute accommodates 14 children. The Ministry of Health, Labour and Social Welfare, the Ministry of Education and Science in cooperation with UNICEF, is currently conducting intensive activities on finding the solution for moving the children out of this institution. Strategic documents envisage the opening of different services for the needs of children with developmental disorders and assistance to their families at the local level.

248. The Ministry of Health, Labour and Social Welfare in cooperation with the Association of Parents of children with developmental disorders, local self-governments and representatives of international organisations is implementing the project of establishing the daily centres network for children with developmental disorders. The first of these centres was established in Bijelo Polje. Currently the activities are underway for opening of daily centres in the municipalities of Nikšić, Pljevlja and Berane.

249. The Association of Parents with children with developmental disorders have organized, in a number of municipalities, the toy-clubs with the purpose of socialization of children with developmental disorders.

250. The Ministry of Health, Labour and Social Welfare, in cooperation with the NGO sector which is taking care of the children with developmental disorders, provided the funds for the rehabilitation of thirty children with attendants, for 15 days in the Institute Simo Milošević in 2006 and 2007.

251. The Ministry of Health, Labour and Social Welfare, in cooperation with the Ministry of Education and Science is implementing the project of free text-books procurement for children with developmental disorders.

3. Social care and services and institutions for childcare (art. 26 and art. 18, para. 3)

252. Pursuant to the article 67 of the Constitution of Montenegro the social insurance shall be mandatory and the State shall provide material security to the person who is unable to work and has no funds for life.

253. Social protection is prescribed by the Law on Social and Child Protection. This Law includes all rights of children without parental care and children with special needs. Within the social protection system children can be beneficiaries of all rights of common interest such as: the family cash benefit, the personal disability benefit, the allowance for home care and assistance, placement in an institution, placement in a foster family and assistance with education of children and youth with disabilities (art. 12).

254. The right to family cash benefit – conditions for acquiring this right are prescribed on the basis of personal and financial status of an individual. When it comes to the personal status, the family, or the member of the family may be entitled to the cash benefit if the family member is incapacitated for work or able to work, on condition that he or she is: pregnant, a single provider; a parent maintaining an underage child or a child of legal age who is incapacitated for work, a person who has completed his education according to the adjusted educational programme and additional professional support or special educational programme and a child without parental care, until they get employed full-time or part-time, for a period of time longer than six months.

255. When it comes to monthly income of the family the conditions are that the average monthly income in the previous quarter did not exceed € 50 for a single-member family up to € 95 for a family of five or more members for the award of this benefit (art. 14, para. 1 (1)). Conditions are prescribed with regard to the possession or owning the business premises, surface area of an apartment or a building, surface area of an agricultural land or forest (art. 14, para. 1 (2), (3) and (4)). Along with this, a legal impediment for exercising this right shall be if the family member: turns down an employment offer or an offer for vocational training, terminates the employment upon his own will before the period one year has elapsed, exercises the right to severance pay for termination of employment within the period of six months, alienates immovable property or waives the right to inherit the property within the period of three years; owns movable property, which according to the

assessment of the centre for social work provides the family with a source of livelihood; and concludes a lifelong maintenance agreement, except with the centre (art. 14, para. 1 (5), (6), (7), (8), (9) and (10)).

256. The right to family material support in 2007 there were 19,570 children (6,763 up to 6 years old, 9,418 from 7–14 years old, 3,389 from 15–19 years old), out of which 9,980 were boys and 9,590 girls (December 2007).

257. Entitlement to a personal disability benefit – this right shall belong to a person who has become incapacitated for work before reaching the age of 18. The monthly rate of the benefit referred to in paragraph 1 of this article shall amount to € 50 (art. 23).

258. Entitlement to the home care and assistance allowance – this right shall belong to a child who exercises the right to personal disability benefit and to a child with grave physical, mental or sensory impediment in need of permanent home care and assistance in the fulfilment of his basic living needs. The Rulebook on Medical Indications for retaining the rights on social protection prescribes the diseases that are the basis for exercising such right. The monthly rate of the allowance shall amount to 50 € (art. 24).

259. The right to placement into the institution of social protection and other family – the entitlement to be placed into an institution shall belong to: a child without parental care, children and youth with physical, mental and sensor impairment and a child with social behaviour problems. The placement is administered through Social Welfare Centres.

260. The Home for Children without Parental Care in Bijela hosts 155 children, out of which 79 are boys and 76 girls. The Centre for Children and Youth “Ljubović” in Podgorica accommodates 23 children, of which 18 are boys and 5 girls.

261. In 2007, 250 children were placed in a host family. The allowance for placement into the foster family amounts to 187 € together with the special remuneration to the family that amounts to 30 per cent of the specified amount. Apart this, the children without parental care have the right to children allowance amounting to 27.50 €, and a child with physical, mental or sensor impediment who can be enabled for independent living and work to allowance amounting to 27.50 € (art. 49).

262. The total amount allocated for social and child protection (social and child protection transfers and resources for operation of social and child protection institutions) in 2007 amounted to 36,258,432.00 €. The total share of the specified amount allocated for social and child protection within the budget of Montenegro, which, according to the amending budget for 2007 amounted to 749,088,301.36 €, is 4.84 per cent.

4. Standard of living (art. 27, paras. 1–3)

263. Aiming at establishing the rights to living standard, the Law on Social and Child Protection prescribes the basic rights to child protection such as: the newborn allowance, the child allowance, the maternity leave pay, the childcare allowance and entitlement to child rest and leisure (art. 43).

264. The newborn allowance – a parent shall be entitled to a newborn allowance for the supply of baby accessories for each newborn child. A parent may exercise the right to the benefit referred to in paragraph 1 of this Article until the child reaches the age of one. The benefit shall be paid off in a lump sum of € 100 (art. 44).

265. The child allowance – the following children may qualify for entitlement to a child allowance: a child receiving a cash benefit; a disabled child who can be trained to develop skills for independent life and work, a disabled child who cannot be trained to develop skills for independent life and work, and a child without parental care. A child shall be

entitled to a child allowance after reaching the age of 18 and undergoing regular secondary school education, until the end of the time limit set out for such education.

266. The maternity leave pay – an employed person shall be entitled to pay during maternity leave. The employee shall be rendered entitlement to such pay by the employer. A person working as an entrepreneur shall effectuate the entitlement to the benefit at the social welfare centre. The rate of the pay shall be equal to the wage the employee would receive for the position to which he is assigned. The pay rate cannot be set at an amount lower than the lowest price of labour, in accordance with the law and General Collective Agreement.

267. The allowance for part-time work – entitlement to the allowance due to intensive childcare, that is, for taking care of a sick child shall be granted, pursuant to the Law, by the employer. A solely-employed entrepreneur shall receive the pay at the centre, in an amount equal to 50 per cent of the base income for which taxes and contributions have been paid (arts. 58–61).

268. Rest and Leisure – entitlement to rest and leisure shall belong to the child recipient of a cash benefit and to the child placed in an institution or in another family, for sports, leisure, cultural, entertainment and education activities. The entitlement of the person to rest and leisure shall be effectuated with their referral to a child holiday and leisure facility (art. 44).

269. The right to the newborn allowance was exercised, on a monthly basis by 650 families on average in 2007. The right to the child allowance in December 2007 was exercised by 18,524 children. The entitlement to the maternity leave pay and the allowance for part-time work in 2007 was used by 4,990 persons. The entitlement for rest and leisure in 2007 was used by 3,000 children.

270. MONSTAT has been conducting the poverty analysis from 2006, calculating the main poverty indicators using the poverty line amounting to € 144.68 per equivalent adult:

	2005	2006
National absolute poverty line in €/month/equivalent adult	144.68	
Poverty rate (%)	11.3	11.3
95% confidence interval	[8.5, 14.1]	[8.8, 13.8]
Poverty gap (%)	2.1	1.9
Poverty severity (%)	0.7	0.6
Poverty line as a % of average consumption	52.6	53.6
Average consumption of the poor as a % of average consumption	42.8	44.4
Average deficit (%)	18.7	17.2
Estimated population	622 851	625 142
Estimated number of the poor	70 495	70 686

Note: Poverty line is expressed on monthly basis in 2006 prices.

Source: Team estimates using the 2005 and 2006 HBS.

271. Poverty estimates for 2005 and 2006 are based on the newly established national poverty line which is constructed in line with the methodology recommended by the World Bank. Calculations rely on the Household Budget Survey data collected by the MONSTAT. We find that 11.3 percent of the population or almost 71,000 Montenegrins lived in poverty in 2006. The poverty rate stagnated between 2005 and 2006, but the depth and the severity of poverty declined. Consumption and income inequality also declined. Further analytical work is presently underway on preparing updated poverty estimates for Montenegro using data from the 2007 HBS.

272. The Ministry of Education and Science initiated the realisation of the activity of free text-books distribution in the school year 2005/06 and for this purpose it used the funds World Bank loan provided for support of the education reform process.

273. In the school year 2005/06 through this activity was provided 1,494 textbooks sets, with the total amount of 53,311.50 €. The right to free sets of textbooks had the pupils of primary schools who attended classes through new educational programmes and whose parents were beneficiaries of the Family Material Support. Apart from this, with the aim of promotion of Roma population education, these resources provided also 505 sets of free textbooks for Roma pupils who attend classes in the Public Institution Primary School “Božidar Vuković Podgoričanin” in Podgorica and 107 sets for Roma children enrolled in the first grade in all primary schools in Montenegro. The data on the number of Roma children in the primary schools were provided by the Roma non-governmental organisation “Početak” (“Beginning”).

274. In the school year 2006/07 pupils in Montenegro were provided 1454 sets of free textbooks in total, amounting to 87,988.96 €, for primary school and lyceum pupils who attended the classes pursuant to the new curricula and whose parents are the family material support beneficiaries. In the school year 2007/08, 2,920 sets of free textbooks were distributed for the pupils of primary schools and lyceums who attended the classes pursuant to the new curricula and whose parents are the family material support beneficiaries and for the Roma children who had the status of a refugee or internally displaced person. For this purpose 163,089.00 € was spent.

275. For the purposes of providing free textbooks in this school year (2008/09), the Ministry of Education and Science and the Ministry of Health, Labour and Social Welfare have planned the resources for this purpose within their budgets. The Ministry of Education and Science has planned the resources for this purpose in its budget mounting to 1,000,000 €, while the Ministry of Health, Labour and Social Welfare has allocated the funds amounting to 306,000 €.

276. This activity included all pupils whose parents are the family material support beneficiaries, children with disabilities within the inclusive programme, children in special institutions, children without parental care and children of fallen soldiers. The data collected as a result of cooperation of local social welfare centres and schools but also through cooperation of the Ministry of Education and Science and the Ministry of Health, Labour and Social Welfare.

277. Sets of free textbooks were distributed to pupils through school libraries, while a competent Social Welfare Centre paid the amount of 90 € for the purpose of acquiring books to parents whose children attend secondary vocational schools. The Ministry of Education and Science has provided 9,068 sets of textbooks for primary and lyceum education, through the activity of this year, and for this purpose was spent 619,674.80 €.

278. Apart from this, the Embassy of United States in Podgorica has provided free textbooks for pupils of Roma nationality whose families have the status of refugees. It has allocated the amount of 20,000 \$ in order to procure textbooks for children in the settlement “Konik – Kamp1” for 266 pupils of the Public Institution Primary School “Božidar

Vuković Podgoričanin”, who attend the first four classes of the primary school. According to the Strategy for Improvement of Position of RAE Population in Montenegro 2008–2012, through the implementation of the project “Free Textbooks for Roma Pupils” had been provided 462 sets of textbooks for Roma pupils. The Ministry of Education and Science had allocated 44,205.26 € for this purpose.

VII. Education, leisure and cultural activities

1. Education, including vocational training and guidance (art. 28)

279. Engaging in the overall reform system of education in 2000, Montenegro has defined as the key goal: “The new system of education must be compatible with the strategic development orientation and overall goals of the reform in Montenegro for the development of a democratic, economically prosperous and open society, based on the governance of law, peaceful interethnic coexistence, understanding and tolerance” (“*The Book of Changes*”, Ministry of Education and Science of Montenegro, Podgorica, 2001).

280. The overall process of education reform is based on the basic principles that include: decentralization of the system, equal opportunities, making choice according to individual abilities and interests, application of a quality system, human resource development, lifelong learning, flexibility, possibility of transfer and gradual introduction of changes (“*The Book of Changes*”, Ministry of Education and Science of Montenegro, Podgorica, 2001).

281. The process of education reform in Montenegro has, so far, been directed towards the following activities: defining the legislation framework, precisely – introducing 10 laws from the area of education; establishing of the new institutions and advisory bodies which provided for the decentralisation of the system. The newly established institutions are: the Bureau of Education Services, the Centre for Vocational Education, the Examination Centre, as well as the Advisory Council for General Education (competent for primary and secondary schools), the Advisory Council for Vocational Education, the Advisory Council Adult Education, the Advisory Council for High Education and the Advisory Council for Scientific Research; curricula improvement, training of teachers; training of principals; printing of new textbooks, improvement of school infrastructure, creating preconditions for using information technologies within the learning process.

282. Pursuant to the Constitution of Montenegro (art. 75), the right to education under same conditions shall be guaranteed. Primary education is mandatory and no school fees are paid for it and the autonomy of universities, higher education and scientific institutions shall be also guaranteed.

283. Budget allocations for education system in Montenegro amount to 16.68 per cent out of the total budget of Montenegro for 2008, while the distribution of funds for specific levels of education was done in the following way:

<i>Level of education</i>	<i>Amount</i>	<i>Percentage of the budget of the Ministry of Education</i>
Pre-school education	11 235 760.71 €	9.22%
Elementary education	65 698 743.67 €	53.92%
Secondary education	30 539 980.05 €	25.06%
Science	1 797 312.16 €	1.46%
Adult education	174 496.06 €	0.14%

284. Article 11 of the General Law on Education prescribes that the educational process within the institutions shall be conducted in the language that is in the official use. In the municipalities within which the majority, or a significant part of population, is composed of the members of national and ethnical groups, the teaching shall be conducted in the language of those national or ethnical groups. This article also states that the school shall be obliged to provide a student who is attending the lessons in non-mother tongue language adequate help in the learning of the language in which the teaching is carried out. The lecture is being delivered in Albanian language in one preschool institution, 13 elementary and 3 secondary vocational and coeducational schools.

285. The distribution of the institutions within the territory of the Republic provides to the citizens equal access in acquiring education and the citizens of Montenegro are equal in exercising the right to education regardless of the national affiliation, race, gender, language, religion, and social background and of other personal characteristics, all citizens of Republic shall be equal in the exercising of the right of education.

286. Starting from the year 2000, when the reform of the educational system in Montenegro officially started, a great attention has been given to the training of teachers and directors within primary and secondary schools, due to the fact that new curricula and textbooks are made in accordance with the idea of the establishment of educational and training system which will be sufficiently flexible to respond to requests caused by fast changes, ensuring that it uses specific experiences and practices of the European Union countries that will guarantee the advancement towards the same goal but with preservation of differences that reflect the specificities of Montenegro. The General Law on Education (art. 112) defines the rights and the obligations of the teachers regarding the vocational training through various forms of trainings – individual, formal and informal. The programmes and the organization of models of vocational training for teachers are prescribed by the Ministry of Education and Science, at the proposal of the Bureau for Educational Services, or the Centre for Vocational Education.

287. The preschool education in Montenegro has been regulated by the Law on Preschool Education and it is implemented as a part of unique educational system in Montenegro. This system includes all children until they start going to primary school. Preschool institutions in the school year 2007/08 were organized in 20 municipalities in Montenegro. Preschool education curricula have been conducted in Montenegrin language in 20 institutions and in 1 institution (in Ulcinj) the preschool education has been organized in Albanian language.

288. Taking into consideration that some 29 per cent of preschool children have the possibility to attend these institutions (due to limited school space), starting from the school year 2004/05 the teaching in the primary schools in Montenegro has been lasting nine years. The primary education starts from the age of six, in order to overcome the differences, through the preparation class, between the children who had and those who had not the possibility to attend the preschool institutions.

289. Lack of adequate spatial conditions is being partially overcome through the work of non-governmental organisations that provide preschool education services but in whose activity and statistical data the Ministry of Education does not have an insight, due to the fact that these organisation, in the previous period, have been established pursuant to the Ministry of Justice authorisation and without the obligation to register with the Ministry of Education and Science.

290. The right to the primary education is defined by the Law on Primary education and it shall be compulsory for all children from the age of 6 to 15. Parents or tutors must ensure for their children to meet the compulsion of primary education which shall be considered completed after pupil's nine years long attending of primary school. The primary education

shall last nine years. For the purpose of the attaining of primary education in the school, there shall not be any tuition fees.

291. Primary education is conducted in Montenegrin language in 148 schools, in Albanian in 12 schools (in 6 in Albanian language only — in Ulcinj, Bar and Rožaje and in 6 bilingual primary schools — in Ulcinj, Plav and Podgorica) and in English language in 1 private primary school for children of foreign nationals.

292. Primary education in the school year 2007/08 is lasting eight years in 47 primary schools, while in 114 primary schools the educational programmes are realized during nine years of primary school.

293. Primary education in Montenegro is realized within the network which includes 161 main elementary schools in Montenegro, with 300 district units and 1 private primary school for children of foreign nationals.

294. In the school year 2007/08 the system of elementary education included 75,040 children out of which were 37,964 and 37,076 boys. Taking into account the regional division of Montenegro, the percentage of children included into the primary education in the Northern region amounted to 31.52 per cent, in the Central region 46.35 per cent and in the Southern region 22.13 per cent.

295. The secondary school pupils in Montenegro may acquire general and vocational secondary education in 47 public and 2 private secondary schools that are organised as lyceums, secondary miscellaneous schools (simultaneously realising the lyceum curricula and secondary vocational education curricula) and secondary vocational schools. In each of the 21 municipalities in Montenegro the lyceum and secondary vocational education curricula are being realized in order to give the possibility to choose to secondary school pupils.

296. Secondary education in public secondary schools in Montenegro is conducted in Montenegrin language in 43 schools, in Albanian in 4 schools (Plav, Tuzi and Ulcinj), while in the private lyceums the learning process is conducted in Montenegrin language in one school and in English language in one school in Albanian language.

297. Secondary education through lyceum has been realized in 23 institutions all together, out of which: 12 lyceums (10 public and 2 private — one in Ulcinj “Drita” and one in Podgorica — “Luča”) and 11 secondary miscellaneous schools.

298. In the school year 2007/08, out of 31,381 pupils attending a secondary school 9,822 (31.3 per cent) is studying according to the lyceum curricula, while 21,559 (68.7 per cent) is attending the programmes of secondary vocational education. The total number of girls in all secondary schools is 16,686 and boys 14,695.

299. Pursuant to the Article 34 of the Law on Primary Education the schooling of a child may be delayed for the period of one school year at the proposal of parents, the competent health service or of the special Commission if it was found the child has not been ready for schooling yet. The Principal shall appoint the Commission which shall be composed of a paediatrician, a school psychologist and an educator, or a teacher. Pursuant to the article 37 of this Law parents may organize the education of their children either at home and they are obliged, within three months before the commencement of the school year, to inform the school, in which their child was enrolled, in written that the education of the child has been organized at home.

300. The General Law on Education prescribes that the director of the institution may temporarily forbid the execution of educational activities of the teacher against who were instituted legal proceedings for the act against the sexual freedom. Apart this, if the teacher

has been convicted for the offence against the sexual freedom by a valid judgement, s/he can not execute the educational activity.

2. Aims of education (art. 29)

301. The General Law on Education defines that the aim of education is: provide the possibility for complete individual development regardless of the sex, age, social and cultural background, national and religious affiliations and of physical and psychological structure; meet needs, interests, wishes and ambitions of individuals for life long learning; enable the selection of educational curriculum at all levels of education; develop the awareness, the need and the capabilities for the maintenance and the improvement of human rights, legal state, of natural and social environment, of multiethnic and diversity; develop the awareness on state affiliation to Montenegro, on its culture, tradition and history; enable individuals the involvement and participation in all levels of work and activities in line with their capacities; develop the awareness on national affiliation, culture, history and tradition; facilitate the involvement into the process of European integrations.

302. By introducing the education system reform in Montenegro, a great attention has been given to the training of teachers and directors in elementary and secondary schools, giving the fact that new and future educational programmes and textbooks have been developed in accordance with the notion of instituting an educational and training system which would be sufficiently flexible in order to answer to demands caused by fast changes, ensuring the implementation of experiences and practice of the European Union countries what would guarantee the progress towards the same goal, while preserving the differences which represent the specificities of Montenegro. The General Law on Education (art. 112) defines the rights and obligations of teachers regarding the vocational training through various forms of self-improvement: individual, formal and informal. The Ministry prescribes the programmes and the organization of the forms of in vocational training for teachers, at the proposal of the Bureau for Educational Services or the Centre for Vocational Education.

3. Leisure, recreation and cultural activities (art. 31)

303. The law on "Children's Week" prescribes that the purpose of institutionalizing the Children's Week is creating of favourable conditions and extending the material basis for development, strengthening and improvement of the community system of child protection (art. 1). The Children's Week takes place during the first week of October every year. During that week, children take part in cultural-educational and recreational events throughout Montenegro. During the Children's Week municipalities can organize the raising of voluntary contributions and gifts from physical persons and legal entities as a contribution for child protection (art. 4).

304. Pursuant to the Law on Social and Child Protection, the right to holiday and recreation has the child of the material support beneficiary and the child placed into an institution or in another family, for sport-recreational, culture and entertainment and educational activities. These children shall exercise the right to rest and leisure by accommodation into the institution for rest and leisure for children. Criteria and standards for the establishment of the rest and leisure cost rate in an institution founded by the state shall be set by the competent body of the government administration (art. 62).

VIII. Children in special situations

1. Refugee children (art. 22)

305. Article 44 of the Constitution of Montenegro sets out that a foreign national reasonably fearing from persecution on the grounds of his/her race, language, religion or association with a nation or a group or due to own political beliefs may request asylum in Montenegro. A foreign national shall not be expelled from Montenegro to where due to his race, religion, language or association with a nation he/she is threatened with death sentence, torture, inhuman degradation, persecution or serious violation of rights guaranteed by this Constitution. A foreign national may be expelled from Montenegro solely on the basis of a court decision and in a procedure provided for by the law.

306. The Law on Asylum sets out the principles, conditions and procedure for granting the asylum, recognition of the status of the refugee and assigning additional or temporary protection, rights and obligation of the asylum-seekers to whom had been recognized the refugee status and granted the additional or temporary protection, so as the reasons for termination and abolition of their status. These individuals are entitled to: residence and free movement, identification document proving the identity, passport for a foreigner for travelling abroad, free elementary and high education founded by the state; providing accommodation if needed; health protection; family reunion; social protection; freedom of religion; free access to the High Commissariat and non-governmental organizations for receiving assistance with the procedure of acquiring asylum; humanitarian help.

307. The Directive on Financial Assistance for a person seeking asylum, to whom is granted the refugee status and additional or temporary protection, prescribes the way of exercising the right to financial assistance and the amount of the monthly subsidy and one-time cash benefit. The financial assistance is set at the same amount as the one for Montenegrin nationals, beneficiaries of the material family support.

308. Montenegro has been faced with solving the issue of refugees and internally displaced persons from the beginning of the 1990s. In one period (1999), due to warfare environment, Montenegro had over 120,000 refugees and internally displaced persons or over 20 per cent of the total population of Montenegro, what was an unprecedented case in the world migration annals.

309. Confirming its strong will to offer assistance and concrete solutions to refugees and internally displaced persons, the Government of Montenegro has adopted the National Strategy for Permanent Solving of Refugee and Internally Displaced Persons Issue (2005). Within that period 27,000 refugees and internally displaced persons resided in Montenegro (what represents over 4.2 per cent of the total population) out of which 8,474 of refugees and some 18,500 internally displaced persons. Among internally displaced persons in Montenegro, the most numerous are internally displaced persons from Kosovo – 68 per cent, refugees from Bosnia and Herzegovina 23 per cent, while 8.8 per cent are from Croatia.

310. According to the Bureau for the Care of Refugees data there are 16,201 displaced person from Kosovo in Montenegro, out of which 5,530 or 34.145 per cent of children younger than 18 years old, and according to the Ministry of Interior data, there are 7,439 of refugees from ex-Yugoslav Republics in Montenegro, out of which 948 or 13 per cent of children younger than eighteen years old.

2. The rights of the child in armed conflicts, including the right to physical and psychological recovery and reintegration (arts. 38 and 39)

311. According to the Constitution the Army defends the independence, sovereignty and state territory of Montenegro, in accordance with the principles of international law regarding the use of force. The Army is under democratic and civil control. The members of the Army may be part of the international forces (art. 129).

312. Montenegro had ratified the Geneva Conventions in 1949 together with the protocols of these Conventions.

313. Pursuant to the Law on the Army, all Montenegrin citizens shall have the military obligation during the state of emergency or the state of war. During the peace time the conscripts can be, on voluntary basis, asked for a training in order to acquire necessary knowledge and meet their obligations during the war, for the period of maximum 15 days during one calendar year (art. 172). The military obligation incurs at the beginning of the calendar year in which the recruited person turns 18 years of age (art. 173).

314. The Law on Defence sets out the working obligation for citizens to participate in the execution of specific activities and tasks that are important for the defence if the country during the state of emergency or during the war. The working obligation shall have all persons of working age, namely: man from 18 to 65 years old, and women from 18 to 60 years old, who are not included into the military service.

315. The method of organisation and fulfilment of the working obligation is regulated by the Government (art. 8).

316. The fulfilment of the working obligation can not be imposed to a citizen, without his/her consent, namely: to a parent of the child younger 15 years of age, to a person whose spouse is at the time under the military obligation, to a single parent who has a child younger than seven years of age, two or more children younger 15 years of age or a child with disability and who, according to the competent health authority, requires the assistance of another person; to a women during pregnancy, i.e. maternity – if the child is younger than 15 years; to a person whose spouse is a person with disability and who, according to the competent health authority, requires the assistance of another person; to a person who is incapable for work (art. 9).

3. Children in conflict with the law (art. 40)

317. The Law on Juvenile Perpetrators of Criminal Acts and on Criminal Legal Protection of Minors is the implementation of international agreements in the national legislation (for example: Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms, United Nations Standard Minimum Rules for the Administration of Juvenile Justice, United Nations Guidelines for the Prevention of Juvenile Delinquency, United Nations Rules for the Protection of Juveniles Deprived of their Liberty, United Nations Standard Minimum Rules for Non-custodial Measures, the European rules on community sanctions and measures, and other documents of the Council of Europe, of which the country is a member.

318. With respect to criminal sanctions, the Law affirms to the maximum possible extent the principle of education rather than punishment, emphasizing that the purpose of criminal sanctions with respect to adolescents is through supervision, providing protection and assistance, and through providing general and vocational training to foster the development

and empowerment of personal responsibility of adolescents, education and adequate development of his/her personality, with the aim to reintegrate in the society.

319. According to the Criminal Code a child shall be considered a person who has not reached the age of 14, a minor shall be considered a person who has reached the age of 14, but not the age of 18, while an underage person is considered a person who has not yet reached the age of 18 (art. 142, paras. 8–10).

320. The special provisions that are applicable to juvenile criminal offenders shall be applied under special conditions to adults as well, if they are tried for the criminal offence they had committed when they were minors and, exceptionally, if they had committed the offence as young adults (art. 79). The Criminal Code prescribes also rules for exception of criminal sanction for children, what means establishing a minimum age under which criminal judicial organs can not be competent. According to this, sanctions can not be applied to a juvenile who at the time of the commission of a criminal offence was under the age of 14 years (a child). Regarding the system of sanctions that can be inflicted to juveniles, it is prescribed the application of educational measures only for junior juvenile and only in exceptional cases a juvenile prison can be applied. A juvenile can not be given probation or a court warning. Corrective measures, as a sort of criminal sanctions may be pronounced against junior juveniles, while a measure of juvenile prison sentence may be pronounced exceptionally against senior juveniles. The purpose of educational measures and juvenile imprisonment is to ensure that by providing protection and help to juvenile criminal offenders by extending supervision over them, professional training and development of personal responsibility they provide for their education, rehabilitation and proper development. The purpose of a juvenile custody is also to exercise increased influence on juvenile offenders in order to prevent them from committing criminal offences as well as on other juveniles against committing criminal offences.

321. According to the Criminal Code, the following educational measures shall be applied to a juvenile criminal offender. Disciplinary measures: a reprimand and committal to a reformatory educational centre for juveniles.

322. Measures of intensive supervision: intensive supervision by parents, adoptive parents or a tutor; intensive supervision by tutelary authority and intensive supervision with daily stay in an appropriate institution for reformatory juvenile education; institutional measures: committal to an educational institution; committal to an educational – correctional home as well as to a special institution for medical treatment and professional training.

323. Educational measures of intensive supervision and institutional measures can last from six months to two years and the court can decide later on its termination in a successive procedure. A juvenile may stay from one to four years in an educational correctional home and in a specialized institution for medical treatment and rehabilitation for maximum three years. The possibility of reconsideration of educational measures is also envisaged.

324. When imposing some of educational measures of intensive supervision, the court can determine one or more of the following obligations for a juvenile, if so needed for a successful accomplishment of the purpose of the pronounced measure (art. 9). When ordering the obligations, the court shall particularly inform the juvenile and his/her parents, adoptive parents or a tutor that in case of failure to meet the obligations thereof the pronounced measure of intensive supervision can be replaced with some other educational measure. Pursuant to the Criminal Code, the juvenile imprisonment can not last less than six months or exceed eight years. Exceptionally, for offences prescribed for which as a mildest penalty measure is a prison penalty of 10 years, juvenile imprisonment up to 10 years may be pronounced, and this penalty shall be pronounced in full years and months.

325. Juvenile imprisonment – Elder juveniles serve their penalty of imprisonment in specialized educational correctional institutions for juveniles in which they are allowed to stay by the age of twenty three years and if their serving of the penalty is not completed by that time, they are sent to a correctional institution/penitentiary intended for adults who serve their prison penalty. Exceptionally, a person is allowed to stay in an educational correctional institution for juveniles after having reached the age of twenty three years, if indispensable for the continuation of his/her education or professional training, but not after he has reached the age of twenty five years. A person on whom is imposed the penalty of juvenile imprisonment may be released on parole by a court of law from serving the penalty of juvenile imprisonment, if s/he served one third of the pronounced sentence, but not less than one year, and if it can be reasonably expected, based on the success achieved in correcting his/her conduct, that such a person shall behave correctly while at large and shall refrain from perpetrating criminal offences in future.

326. One or more diversion orders can be pronounced for juvenile criminal offender for criminal offences for which is prescribed a fine or imprisonment of up to five years and they shall be pronounced by the court ex officio or upon motion of the competent Prosecutor. The conditions for diversion orders applications are as follows: admission of guilt by the minor and his attitude towards the criminal offence and the injured party. The purpose of diversion orders is to prevent the institution of criminal proceedings against the minor or to dismiss the proceedings, or to influence onto the normal development of the minor and to strengthen his/her personal responsibility in order to prevent him/her to commit criminal offences in the future.

327. Diversion orders are as follows: a settlement with the injured party in order to remove in the whole or partially, by compensation of damage, apologising, work or in some other way, harmful effects of the offence; to attend school regularly or to go to work regularly; to get involved, without remuneration, into the work of humanitarian organisations or into activities of social, local or ecological interest; to submit to an appropriate medical examination and drug or alcohol addiction treatment; to include into individual or group treatment in suitable health institution or counselling centre.

328. Diversion order shall last for maximum six months and during that period it can be altered by other diversion order or revoked. The choice and application of this measure shall be done in cooperation with parents, adoptive parents or a tutor of the minor, so as with the competent foster-family authority.

329. As a special obligation, the court can prescribe to the minor to perform humanitarian, cultural, ecological and other activities of public interest, without remuneration. This activity should last 30 hours during one month and it can be performed during a period that can not last less than one month or longer than four months. The Court shall take into consideration not to disturb the education or employment.

330. Criminal Procedure Code prescribes a special procedure for minors. During the criminal proceedings, the presumption of innocence is the fundamental principle and as such is implemented also with respect to minor persons. When it is established in the course of the proceeding that at the time when the minor committed the criminal offence he had not reached the age of fourteen the criminal proceeding shall be discontinued, and the juvenile welfare authorities shall be so informed.

331. Fundamental principles of this proceeding are: mandatory procedure and prohibition of trial in absentia, right to attorney from the beginning of pretrial proceedings, mandatory testimony, joint proceeding, urgent proceeding, as well as prohibition of making the course of the proceedings public, exclusion of the public.

332. In the pretrial proceedings, detention may last at the longest one month, the Panel for juveniles of the same Court may, for justifiable reasons, extend detention for a term not

longer than one month. A minor shall serve the sentence separately from adults. A specific feature lies also in the process role of the guardian body and the specific role of the court in enforcing the corrective measures and control thereof.

333. By application of the principle of opportunity for criminal offences punishable by imprisonment for a maximum term of three years or a fine, the State Prosecutor may decide not to request the institution of the criminal proceedings, albeit existing evidence that a minor has committed a criminal offence, if he finds that it would not be purposeful to conduct the criminal proceedings, taking into account the nature of the criminal offence, circumstances under which it has been committed and personal characteristics of the minor.

334. The starting point the juvenile judiciary system reform was that the basic goal of the juvenile judiciary shall be the establishment of the judiciary system for children which is based on: the child's rights, consideration of the best interest of the child as the basic principle of this system, prevention as the primary goal, imprisonment of children as the final available measure and during the minimum possible time, application of the principles of redirection, diversion and restorative justice, with the aim to deter children from the formal criminal justice and to settle a conflict within a local community, this all by application of international norms and standards. The primary goal of preventive work is to ensure that children do not come into a conflict with the law and therefore with formal criminal justice system. Basic factors for juvenile offences are: poverty destroyed family, lack of possibilities for education and employment, influence of friends, lack of parental guidance.

335. Protection of children in conflict with the law within the system of juvenile justice is reflected also in harmonisation of the national legislation with the international standard and guidelines, coordination and training of the representatives of juvenile judiciary system, development of projects, redirection and conflict settlement within the local community, adequate treatment of minors, their protection and preparation for reintegration into society. The Ministry of Justice of Montenegro has adopted the Training Programme for Mediators in Criminal Cases, specialised for mediation between the victim and juvenile criminal offender, and 38 professional from this area of juvenile justice were educated with support of UNICEF and formally appointed as mediators between the victim and the juvenile criminal offender. The Centre for Child and Family Support has been established in Bijelo Polje and the Centre for Mediation in Podgorica.

336. According to MONSTAT data juveniles against whom were filed criminal charges in 2006 were 286 and 314 in 2007. The procedure was legally effective against 206 minors in 2006 and against 148 minors in 2007.

337. In procedures against juveniles in 2007 had been pronounced nine sentences of juvenile prison, for the following offences: aggravated theft (art. 240 of the CC) — four sentences of juvenile prison for six months; depriving of motor vehicle (art. 248 of the CC) — one sentence of juvenile prison for one year; robbery (art. 242 of the CC) — one sentence of juvenile prison for one year; unauthorized production, keeping and releasing for circulation of narcotics (art. 242 of the CC) — one sentence of juvenile prison for one year; attempted murder pursuant to article 143 related to article 29 of the CC — one sentence of juvenile prison for two years and six months; murder pursuant to article 143 — one sentence of juvenile prison for seven years.

338. According to the data of the Ministry of Justice in 2007, 10 educational institutional measures were pronounced – committal to reformatory institution and for criminal offences of theft, robbery, drug abuse.

339. Strong linkage of the social sector and judiciary system as a precondition for the implementation of an efficient reform process, together with the prevention, are the most important segments of the reform. The overall aim of family strengthening and preventive

work with children and family at risk is the support to development of preventive programmes for the work with children and family at risk, so as programmes for rehabilitation and reintegration into society of children in conflict with the law.

340. Acting under complaints within the area of juvenile delinquency, the Ombudsman for human rights and freedoms, pursuant to the Report for 2007, has observed certain problems such as: long duration of judicial procedure, impossibility of alternative institutionalisation of juvenile criminal offenders and problems regarding their committal to an institution for serving the sentence.

4. The right of the child to protection against labour exploitation (art. 32)

341. Pursuant to the Labour Law, the contract of employment may be concluded by a person meeting the general requirements envisaged by this Law and special requirements envisaged by law, other regulations and systematization act. General requirements are that a person must have 15 years of age and general health capacity. A disabled person, who has a health capacity to work on adequate jobs, may conclude a contract of employment under the conditions and in the manner determined by this Law, unless otherwise determined by a special law (art. 16).

342. A contract of employment may be concluded with a person younger than 18 years of age, with a written agreement of a parent, adoptive parents or a tutor, if such a work does not jeopardize his health, moral and education, or if such a work is not prohibited by law. A person younger than 18 years of age may conclude the contract of employment only on the basis of findings of the competent health body determining his capacity to perform the activities that the contract of employment is concluded for, and if such activities are not harmful for his health (art. 17).

343. An employed woman and employee under the age of 18 cannot work in a job position with prevailing hard physical labour, works under ground or water, or on activities that can have detrimental and increased risk effect on their health and life (art. 104). Work longer than full-time hours or overnight work cannot be assigned to an employee younger than 18 years of age. Working hours shorter than full-time hours can be determined for the employee referred to in paragraph 1 of this article by the employer-level collective agreement. On exceptional basis, an employee under 18 years of age can be assigned to work overnight, when it is necessary that the work interrupted by natural disasters is continued, i.e. to prevent damage to the raw materials or other material (art. 106).

344. The Criminal Code prescribes that a parent, adoptive parent, a guardian or any other person who by gross negligence of his/her duty to take care and bring up a minor he is obliged to take care of, neglects him/her shall be punished by an imprisonment sentence not exceeding three years. More indictable offence is if a parent, adoptive parent, guardian or other person who abuses a minor or forces him/her to excessive labour or labour not suited to his/her age or to mendicancy or for gain leads him into doing other acts detrimental for his/her development (art. 219).

345. The Law on Public Law and Order prescribes a penalty for a person who induces or forces a minor to mendicancy and s/he shall be punished by imprisonment from 30 to 60 days (art. 27).

346. The number of persons younger than 18 years of age who are employed is statistically irrelevant.

5. The right of the child to protection against sexual exploitation and abuse (art. 34)

347. Montenegro has ratified the international instruments that regulate the area of protection against exploitation and abuse: Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

348. The ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography implies also the obligation for its implementation and the harmonization of national legislation. According to this, the criminal legislation was amended and the Law on Family Violence Protection was drafted.

349. The Criminal Code, in chapter XVIII, prescribes criminal acts against sexual freedom. Article 206 criminalizes sexual intercourse or an equal act with a child and prescribes a punishment of imprisonment of 1–10 years. Article 211 incriminates the act of showing of pornographic materials: anyone who sells or displays to a child or by public displaying or in some other way makes available text, pictures, audio-visual or other objects of pornographic content or displays to it a pornographic show, shall be punished by a fine or an imprisonment sentence not exceeding six months. In the same way, the use of a child to produce pictures, audio-visual or other objects of pornographic nature or for a pornographic show is criminalized.

350. In terms of protection of children against sexual exploitation are also important other criminal acts from chapter XIX – criminal acts against marriage and family. Article 216, paragraphs 1 and 2, (extramarital community with a minor) sets out that this criminal act is an act performed by a person of age who lives in such a community with a minor person but also the parent, adoptive parent or guardian who enables or induces the minor person to live with a person of age in an extramarital community. A qualified form of the criminal act exists if the act is committed for reasons of material gain, meaning if there is also an element of financial exploitation.

351. Incest is criminalized as a separate criminal act (art. 223). This criminal act is committed by an adult person who performs a sexual intercourse or an equal act with a minor with whom he is related in blood in direct line, or with a minor brother or sister.

352. The Law on Public Law and Order in the article 24, paragraph 2, provides for 60 days of imprisonment for a person who ceded to minor premises in which to engage in prostitution.

353. Some NGOs state that Montenegrin legislation has a small number of child sexual abuse cases, but this fact should not encourage because it does not reflect the real situation. In the last two years in Podgorica, four cases of incest have been denounced and in the course of nine years long work – 14 cases. None of the cases have been brought to the court, for the reason of silence of victims themselves and their families, and the main reason is the relation of the community towards the victims of sexual abuse in general. There are cases where the court proceedings had been dismissed with the exonerating judgement, because the victims used their right not to give evidence and their depositions were the only evidence in these criminal proceedings.

6. Trafficking, sale and forced abduction (arts. 35 and 36)

354. In 2001 Montenegro appointed the National Coordinator for the Fight against Human Trafficking and on 13 November 2003 the Government adopted the Programme on the Fight against Human Trafficking. This strategically important document envisages taking of concrete legal, administrative and practical measures and it has a comprehensive approach to the human trafficking issue. In 2004 the Office of the National Coordinator was established within the General Secretariat of the Government.

355. As a result of the genuine commitment and intention to create a broad front line in order to oppose the problem of trafficking, the Project Committee was established which represented the best framework for the cooperation of the government institutions, non-governmental sector and international organisations. As a reaction to the global problem of child trafficking in February 2004, the Sub-Group for the Fight against the Child Trafficking was established within the Project Committee.

356. Taking into account the recommendations of the OSCE, which has set as one of its main priorities the fight against organized crime and especially against human trafficking, the Government adopted the Strategy for Fight against Human Trafficking, as well as the Action Plan for Fight against Human Trafficking in cooperation with the international organisations and among first countries in the region. This strategic document consisted in three parts: prevention, criminal prosecution and protection of victims and it envisaged taking legal, administrative and practical measure in the fight against the human trafficking. Aiming at the full implementation of the National Strategy, the Government established the Working Group consisted of line ministries representatives, the State Prosecutor and relevant international organisations with missions in Montenegro. At the beginning of 2000 the NGO "Women Lobby of Montenegro" established the SOS line for fight against the human trafficking.

357. The Government of Montenegro, in cooperation of the International Organisation for Migrations (IOM) and the OSCE, at the beginning of 2004 opened the Shelter for Victims of Human Trafficking, ran by the activists of the NGO "Women Lobby of Montenegro". With the view to improve the system of protection of human trafficking victims, the Government, from the beginning of 2006, has been allocating the funds from the state Budget needed for free functioning of the Shelter. The Shelter provides: health, psychological, social and legal assistance, accommodation, food and other necessary assistance to the victims of trafficking. Beside this institution, the shelter for the victims of trafficking is provided by the activists of the NGO "Safe Women's House", NGO "Centre Plus" and NGO "The Home of Hope".

358. Within the area of education of judges and prosecutors, the Ministry of Justice in cooperation with the IOM has developed the Handbook for Training of Prosecutors and Judges. The judges and prosecutors from several municipalities of Montenegro attended the trainings that followed immediately after the issuance of the Handbook.

359. The Government of Montenegro and the OSCE Mission are implementing the project the "Public-Private Co-operation in the Prevention of Trafficking and Sexual Exploitation of Minors in Travel and Tourism Industry". On 15 September 2006 the "Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism" was signed with the representatives of the tourism industry. This document aims at enhancing and streamlining the commitment of companies operating in the tourism industry of Montenegro to support multisectoral efforts in combating the child trafficking, or exploitation of children for the purpose of human trafficking.

360. In order to provide a more complete and comprehensive assistance, on 18 October, 2007 – the World Day of the Fight against Human Trafficking, the Ministry of Health,

Labour and Social Welfare in cooperation with the Office of the national Coordinator for the Fight against Human Trafficking and the OSCE Mission, signed the Agreement on Mutual Cooperation between the Supreme State Prosecutor, the Ministry of Health, Labour and Social Welfare, the Ministry of Education and Science, the Police Directorate and the non-governmental organizations “Women Lobby of Montenegro”, “Safe Women’s House” and “Centre Plus”, with the objective to improve the cooperation in the fight against human trafficking in practice, through prevention, education, prosecution of offenders and protection of potential victims of the human trafficking, especially women and children.

361. Within the area of health protection, the Ministry of Health, Labour and Social Welfare is going to provide an adequate health protection through public health institutions, respecting the principles of urgency and priority within all 24 hours.

362. In the case of a child victim of the human trafficking, the Centre for Social Welfare provides accommodation to the child, what understates a safe accommodation and an adequate treatment: psychological, social, psychiatric, so as the urgency in dealing with a child victim of the human trafficking. Within the territory of Montenegro, there is still no separate shelter for children victims of the human trafficking (a specialized service providing accommodation, health, psychological, social and legal assistance). Due to this fact, children victims of the human trafficking are placed in the existent institutions of social protection (children’s homes) where children without parental care are placed or in the Shelter for Victims of Human Trafficking ran by the NGO “Women Lobby of Montenegro”.

363. Representatives of the Ministry of Health, Labour and Social Welfare have participated in numerous working sessions, workshops, seminars, lectures and study tours where they were educated and introduced to modern and good practices within this area.

364. The Criminal Code incriminates human and especially child trafficking. Pursuant to article 444, anyone who by force or threat, deceit or keeping in delusion, by abuse of authority, trust, relationship of dependency, difficult position of another person or by keeping back identification papers or by giving or receiving money or other benefit for the purpose of obtaining consent of a person having control over another: recruits, transports, transfers, hands over, sells, buys, mediates in sale, hides or keeps another person for exploitation of work, submission to servitude, commission of crimes, prostitution or begging, pornographic use, taking away a body part for transplantation or for use in armed conflicts shall be punished by imprisonment for a term of 1–10 years. A more serious form of this offence shall be if the offence is committed against a juvenile person. The Criminal Code sets out two additional offences: children trafficked for the purpose of adoption (art. 445) and transport of persons under slavery (art. 446).

365. According to the 2004 data of the National Coordinator for the Fight against Trafficking up to the end of September 2008, 21 criminal charges were filed against 45 perpetrators in the cases of 33 victims of human trafficking. From 2005 to 2008, 100 persons have stayed in the Shelter for Victims of Human Trafficking. Apart from having accommodated victims of human trafficking it also accommodated victims of human trafficking, victims of family violence, so as persons who waited for the issuance of travel documents. Until this moment, 11 charges were brought against 34 persons. There is one final judgment of acquittal for the criminal offence of human trafficking and a number of judgments of acquittal of first instance which are under the appeal. It is important to emphasize that among the victims of human trafficking there were no children.

7. The right of the child to protection against illicit use of narcotics and psychotropic substances (art. 33)

366. Pursuant to the Law on the Production and Marketing of Narcotics, production and marketing of narcotics is allowed for medical, veterinary, educational, laboratory and scientific purposes, provided that a permit is issued by a competent authority. It also sets out the conditions for the production and marketing of these substances, the keeping of records and the actions by competent authorities in cases of seized narcotics.

367. The Criminal Code stipulates two criminal offences: (1) unauthorized production, keeping and releasing for circulation of narcotics (2) enabling the taking of narcotics. This Code criminalizes anyone who unlawfully produces, processes, sells or offers for sale, or who for the purpose of selling buys, keeps or transports or mediates in the selling or buying, or in some other way unlawfully releases for circulation the substances or preparations pronounced to be narcotics (art. 300). Anyone who induces another to take narcotics or gives narcotics to another for his/her or someone else's use, or places at someone's disposal premises for taking the narcotics, or in some other way enables another to take narcotics shall also be sentenced. A more indictable offence refers to a person who does such things against juveniles (art. 301).

368. Having analysed work done so far with the addicts, it may be concluded that addicts, their families or friends, on their own initiative ask for assistance in solving the problem of addiction diseases. Their motivation and cooperation may also be noticed. It is worth mentioning that all segments of society are involved in solving the addiction problem, in addition that the role and support of the families of addicts should be specially emphasized.

369. At the beginning of the 1990s, when the problem of addiction diseases actually appeared, the addicts were mainly found with those between 25 and 30 years of age. However, the age limit was moving down and thus, nowadays, we have the situation that adolescents of 14–15 years of age start abusing PAS. Adolescents are the most endangered population and the largest "market" for dealers.

370. Data show that disarrangements in adolescence are ranging between 15 and 20 per cent. Delinquency is very intensive in this period. Addiction diseases start exactly in this period. Adolescents rarely ask for help on their own initiative, due to the shame, distrust, fear and the like. Changes in adolescence are obvious and may be noticed against parents, peers and school.

371. Unfortunately, as everywhere in the world, the drugs are also present here on illegal market. Our country is located in the so-called "Balkan route" for smuggling narcotics. Many smuggling routs are crossed over our country, which lead to other countries. Due to its small surface and population size (around 700,000 inhabitants), Montenegro is not interesting as a country where the narcotics would be delivered. It is mainly a transit zone. However, there are individual distributions and dealing with drugs. According to the incidence rate, heroin is in the first place, than marihuana, ecstasy, cocaine and pharmaceutical products.

372. The use of different medicines, i.e. "tabletomania", is an increasing problem with both elder and younger population. Most often hypnotic medicines against pain (analgetics) and antiparkinsonics are used.

373. Higher level of social awareness can also be noticed about harmful effect of narcotics thanks to the organization of educational classes, workshops, tribunes and seminars with a topic of psychoaddictive substance abuse, as well as through distribution of promotion material containing information of an adverse narcotics impact on the organism.

374. The number of addicts in Montenegro is not known, nor are there reliable estimates about that. A survey of the Public Health Institute of Montenegro (2004) shows that around 2 per cent of primary school children and 7.5 per cent of secondary school children have experienced the use of drugs, pointing out a growth trend compared to the survey of this institution from 1999.

375. Content of preventive and educational message must be adjusted to the age and intellectual development. The methods of providing information in particular to young people should be adjusted to their needs. Drawings, brochures and immediate communication are the best techniques for awareness-raising. Approaches based on the placement of information are concerning new knowledge on various types of substances.

376. The police is considerably involved in the prevention of the criminal offences in Montenegro, especially when it comes to the substance abuse. The police disposes of the data on the extent to which the crime is present, its distribution and trend in certain territories. The police may also identify places, which in some area contribute to criminality and have the largest authority in relation to other institutions dealing with this problem, it is very well informed, realize first contact with perpetrators, very often with pre-delinquent youth. The main task of the police is to cut the chain of illegal drug trade, i.e. prevent availability of drugs by taking legally prescribed measures.

377. Recently, the Public Institution for Placement, Rehabilitation and Re-socialization of Users of Psychoactive Substances – Podgorica has been established. It is the first such institution in Montenegro. It is envisaged for male addicts. The institution has accommodation capacities of 70–80 beds. The overall treatment in this institution lasts for 24 months and comprises residential and non-residential parts. The *residential part* of treatment lasts approximately 12 months and includes three phases: adaptation, rehabilitation and re-socialization. The *non-residential part* of treatment also lasts for 12 months and implies groups for self-assistance, volunteering, education and job-seeking. A client is an active participant in the treatment procedure and is the main one who is accountable for achieving personal development and progress aiming at more meaningful and responsible life. That is why the treatment programme is adjusted to the client's individual needs, interests and predispositions.

378. Practical work in the area of substance abuse shows that drug is present in all society strata including unfortunately younger and younger persons. Aiming at more efficient solving of the problem of substance abuse, it is necessary to strengthen penal policy and preventive activities to be focused on different groups. Assistance should be provided to persons who are at the recovery stage, especially when it comes to employment, i.e. in all spheres of social reintegration.

8. Children members of minority groups (art. 30)

379. The Constitution guarantees to persons belonging to minority nations and other minority national communities the rights and liberties, which they can exercise individually or collectively with others. Especially important for children's rights are the following: the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities; the right to use their own language and alphabet in private, public and official use; the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities; the right to establish educational, cultural and religious associations, with the material support of the state; the right to write and use their own name and surname also in their own language and alphabet in the official documents; the right to information in their own language; the right to establish councils for the protection and improvement of special rights.

380. The Law on Minority Rights and Freedoms includes some of the areas important for preservation of identity and providing equal opportunities for all persons belonging to minorities: promotion of the non-discriminatory approach, acknowledging the right to express, preserve, develop, transmit and publicly manifest their national, ethnic, cultural, religious and linguistic identity, the possibility to establish institutions, societies, associations and non-governmental organizations in all fields of social life, as well as the financing of these organizations by the state; free usage of their first name and surname and the first name of their children, as well as the right to register those names in public registers and identification documents in their language and alphabet; free access to information and media, as well as programme contents related to minorities in public services; the right to education in their language and to adequate representation of contents within the curricula, as well as principles of affirmative action within the enrolment policy; the right to use national symbols and celebration of important dates, events and personalities from their tradition and history; free association and keeping unrestricted contacts with their co-nationals outside Montenegro; policy participation of minorities in the Parliament of Montenegro and local community parliaments; proportional representation in public services, state bodies and local self-government bodies; mechanisms for protection from affecting the issues of the vital interest for life of the national minorities, at the state and local levels; articulation of its demands through possibility of national councils establishments with special competencies; establishment of the Fund for Minorities for the purpose of supporting the activities important for preserving national specificities; protection of the abovementioned rights in accordance with the national and international legislation.

381. The Ministry of Culture, Sports and Media supports the realization and promotion of the following programme activities of the minorities: printing magazines and books; translation of the literary and history works; programmes of presentation of folklore inheritance, tradition and costumes; programmes of cooperation with similar institutions and authorities in the countries of origin.

382. The Government of Montenegro adopted the Decision on the Establishment of the Centre for Preservation and Development of the Minorities Culture. The Steering Committee has been adopted; the space and the necessary material and technical facilities have been provided in order to make operational this important institution for preservation and development of minorities' cultures.

383. The Ministry for Protection of Human and Minority Rights, has organized, during past years, "Days of Minority Culture in Montenegro" events. These manifestations are a good way to present a wide range of diversities of origin, language, history, religion, tradition, so as the overall material and spiritual achievements.

384. The new curricula, which are made within the education reform, contain units from the fields of mother tongue, society, history, music and arts, are implemented and integrated the contents representing the language, creative endeavours, history and culture of the minority nations in Montenegro. Within the Council for General Education has been established the professional Commission for Education of National and Ethnic Groups with the aim to inquire into the new curricula that are important for preservation of the identity of minority nations in Montenegro and give its opinion to the Council.

385. The textbooks in mother language are provided for the realization of the curricula in Albanian language, which are implemented in the primary, secondary and high education and for the majority of courses. For the courses that do not have textbooks in Albanian language, due to the low circulation, the competent Council has approved the use of textbooks from the region (Kosovo, Albania) upon the recommendation of the Commission for Education of National and Ethnic Groups.

386. Along with the implementation of the multicultural principle and ethnic tolerance in Montenegro, the newly reformed curricula contain also an important new feature, that of their openness. With introduction of these changes it is made possible for the school and local community to suggest and create 15 to 20 per cent of the curricula in accordance with its needs and specificities.

387. Education of other minorities, namely Bosnians, Muslims and Croats in Montenegro is the consistent part of a unique educational system and it is realized through the concept of the common curricula, due to the fact that the language used by all of them is the part of the unique language system. Apart from the contents integrated into the regular curricula, minority communities have the additional possibility to suggest and create some 20 per cent of the total curricula content of the new courses that are important for their education, which will be studied separately in accordance with their needs and interests.

388. At the University of Montenegro as well are organized teacher's studies in Albanian language for the purpose of education of teacher staff. The studies are organized in accordance with valid norms of the national system of quality in the high education.

389. Educational activities within the preschool institutions are conducted in Albanian language in the municipalities of Ulcinj and Podgorica. Primary education is organized and conducted in Albanian language in five municipalities: Ulcinj, Bar, Podgorica, Plav and Rožaje. During the school year 2003/04 the educational process in primary schools was attended by 3,458 pupils or 4.7 per cent of the total population in Montenegro. Secondary education in Albanian language was organised in three municipalities: Ulcinj, Podgorica and Plav. This educational process was attended by 1,062 pupils or 3.34 per cent of the total population in Montenegro.

390. When it comes to the Roma national minority education in Montenegro and Roma mother tongue studying, it can be stated that there are significant problems with the integration of this national minority into the formal educational system. The problems of Roma education are reflected in the following: the lack of necessary educational staff; Roma language is not standardised and Roma people in Montenegro speak different dialects; there are no available textbooks for the conduction of the educational process in Roma Language.

391. According to the latest surveys in Montenegro and wider, Roma people represent the poorest part of the population, and as one of the basic causes of their extreme poverty the surveys pointed out their illiteracy (over 50 per cent), which represents more than domicile population illiteracy in Montenegro (2.35 per cent of illiterate people, Population Census, 2003). Within the wider support of Roma education and reduction of their overall poverty, the Ministry of Education and Science has conducted a number of significant measures in order to increase the inclusion of Roma children into the formal educational system.

392. The Ministry, together with the Open Society Fund and the UNICEF, has initiated the project "Roma Educational Initiative" (REI). Its main goal is the creation of a good and sustainable model of Roma children education within the formal education of Montenegro. Particular quality of the REI project is the introduction of Roma assistants into schools, which cooperate with parents and educational staff in order to ensure that Roma children efficiently perform their school obligations.

393. Persons who are placed in a health, social or similar institution have the possibility to profess their religion, within the house rules of that institution. Upon their personal demand, these individuals can be visited by the priest in order to practise a religious service.

394. Within the scope of its work the religious communities have the right to establish religious schools and homes for accommodation of the attendants of those schools. These

schools are not a part of the educational system of Montenegro, because they are directed by religious communities which define the curricula and educational staff for its realization. Each religious community uses this right and possibility and organizes the religious instruction in their premises.

395. Montenegro provides a part of the financial resources for exercising the right to information, without discrimination, guaranteed by the Constitution and the Law. In order to achieve these rights, Montenegro directs its financial resources to programme contents in Albanian and other minority languages. The Law on Radio-Diffusion prescribes that “the broadcasting companies of public radio-diffusion services produce and broadcast programmes which are intended to all segments of the society, without discrimination, taking into special account the particular social groups like children and youth, ethnic minority groups produce and broadcast programmes which express the cultural identity of national and ethnic groups; produce and broadcast programmes in mother tongue of the national and ethnic groups in the regions where they live.

396. When it comes to the information of the national minority population through the printed media in Montenegro the greatest number of them is issued in Albanian language. There are also the Croatian (“Croatian Messenger”), the Roma (“Informative Centre”) and the Bosnian (“Bosnian Newspapers”, “The Forum”).

397. The Radio of Montenegro, pursuant to the Law, broadcasts the programmes in Albanian language regularly. Those are exclusively information shows, prepared and realized by the Redaction in Albanian Language. Information of Roma people in Montenegro is realized through programmes of the public radio-diffusion service. The Radio of Montenegro broadcasts 24 transmissions dedicated to Roma people and lasting 30 minutes, bilingual. The transmissions are dedicated to Roma integration in Montenegro and they are prepared by journalists of Roma nationality who have completed the journalist school of the Institute for Media.

398. The Television of Montenegro, according to the established annual scheme, within the Redaction in Albanian language, every working day on the First Channel prepares and broadcasts the information programmes “Lajmet” (The News) which lasts 15 minutes.

399. The information of the Roma population within the public service the Television of Montenegro is realized through the documentary TV show under the name “The Voice of the Roma” which lasts 45 minutes. In 2006, 14 shows were broadcasted with duration of 30 minutes. The satellite channel also broadcasts this show. In 2007, shows dedicated to Roma people were broadcasted once a week, with duration of 30 minutes. They are directed by two journalists.

400. A number of very efficient and active non-governmental associations and organizations dealing with the issue of minority rights protection and improvement of the status of minority communities within the Montenegrin society.

401. According to the 2003 Census data, Montenegro has 620,145 citizens. Out of them 2,601 persons declared as Roma, 225 persons as Egyptians, what makes in total 2,826 persons. Taking into account these data, according to surveys of the non-governmental organizations, there are some 20,000 persons of Roma nationality residing in Montenegro.

402. The status of Roma population in broader region is unsatisfactory and as such it represents a European issue. In this context Montenegro is unavoidable, as a country in transition, which includes its economy, but it is also a country that does its best to create a new philosophy of coexistence, wherein the life with differences does not represent a ballast but an advantage, considering this a real European value and a norm of establishing a human and humanitarian multiethnic harmony as a contribution to European integration aspirations.

403. With this respect, the Government of Montenegro signed the Declaration (2003) on the occasion of “Decade of Roma inclusion 2005–2015” wherein it is stated that the signatory countries shall act in order to eliminate the discrimination and abolish the inadmissible differences that exist between the Roma and the rest of the society.

404. As a follow-up of these activities the Government of Montenegro in January 2005 adopted the National Action Plan for the Implementation of the “Decade of Roma inclusion 2005–2015”. The Government also appointed the National Coordinator for the implementation of this document. The Action Plan includes domicile Roma, refugees Roma and Roma internally displaced persons. The Action Plan is the document owned by Government, made in cooperation with the international organizations and non-governmental sector and it represents the framework for activities directed to the general improvement of the Roma status and greater degree of integration and socialisation into Montenegrin society.

405. Apart from the Action Plan Montenegro adopted the Strategy for Improvement of the Position of RAE Population in Montenegro for the period 2008–2012. The Strategy is represents the implementation of the most important goals of the Action Plan of the Decade of Roma Inclusion. The Budget of Montenegro for 2008 has allocated 400,000.00 € for the realisation of different projects within the areas defined by the Strategy.

406. According to the data of the Ministry of Education and Science in the school year 2007/08 was enrolled 1,263 Roma pupils in the primary school. In this school year there are 156 pupils more pupils comparing to the school year 2006/07. During the same school year 28 Roma pupils attended the secondary school having the status of regular pupils. At the faculties in Montenegro, in the school year 2007/08, eight Roma students studied. For the school year 2008/09, the collection of data is under way.

407. From the fund for the implementation of the Strategy 83,898 € has been allocated for the area of housing. This fund will be used for solving the housing needs of two multi-member Roma families in the municipality of Nikšić, for one multi-member family in the municipality of Bar and for student rents, final works for 10 houses in the municipality of Pljevlja and for shooting of one documentary on housing conditions of Roma people in Montenegro.

408. All individuals of the Roma population are covered by health care and the provision of health services is at a high level. Projects that are realized within this area concern the upgrading of the health protection of the Roma population and the prevention of communicable diseases.

Annex

Legislation referring to the rights and obligations of the child

The Constitution of Montenegro (“Official Gazette of Montenegro”, No. 01/07 dated 25.10.2007)

The Family Law (“Official Gazette of Montenegro”, No. 01/07 dated 09.01.2007)

The Law on Social and Child Protection (“Official Gazette of Montenegro”, No. 78/05 dated 22.12.2005)

The Law on Inheritance (“Official Gazette of Montenegro”, No. 4/76, 10/76, 22/78, 34/86, “Official Gazette of Montenegro”, No. 64/06, “Official Gazette of Montenegro”, No. 47/08 dated 07.08.2008)

The Law on Child Week (“Official Gazette of Montenegro”, No. 26/73, 29/89, 39/89, 48/91, 17/92, 27/94)

The Labour Law (“Official Gazette of Montenegro”, No. 49/08 dated 15.08.2008)

The Law on Health Protection (“Official Gazette of Montenegro”, No. 39/04 dated 09.04.2004)

The Law on Health Insurance (“Official Gazette of Montenegro”, No. 39/04 dated 09.04.2004, 23/05 dated 12.04.2005, 29/05 dated 09.05.2005 and “Official Gazette of Montenegro”, No. 12/07 dated 14.12.2007, 13/07 dated 18.12.2007)

The Law on Protection and Exercise of the Rights of the Mentally Ill (“Official Gazette of Montenegro”, No. 32/05 dated 27.05.2005)

The General Law on Education (“Official Gazette of Montenegro”, No. 64/02 dated 28.11.2002, 31/05 dated 18.05.2005, 49/07 dated 10.08.2007 and “Official Gazette of Montenegro”, No. 04/08 dated 17.01.2008)

The Execution of Criminal Sanctions (“Official Gazette of Montenegro”, No. 34/91, 48/91, 17/92, 56/92, 32/93, 27/94, 2/95, 20/95, 64/02)

The Law on Primary Education (“Official Gazette of Montenegro”, No. 64/02 dated 28.11.2002, 49/07 dated 10.08.2007)

The Law on Lyceum (“Official Gazette of Montenegro”, No. 64/02 dated 28.11.2002, 49/07 dated 10.08.2007)

The Law on Secondary School (“Official Gazette of Montenegro”, No. 28/91 and “Sl. list RCG”, No. 35/91, 56/92, 27/94–391, 27/94–395, 64/02)

The Law on Special Education (“Official Gazette of Montenegro”, No. 56/92)

The Law on Education of Children with Disabilities (“Official Gazette of Montenegro”, No. 80/04 dated 29.12.2004)

Criminal Procedure Code (“Official Gazette of Montenegro”, No. 71/03 dated 29.12.2003, 07/04 dated 11.02.2004, 47/06 dated 25.07.2006)

The Criminal Code (“Official Gazette of Montenegro”, No. 70/03 dated 25.12.2003, 13/04 dated 26.02.2004, 47/06 dated 25.07.2006, “Official Gazette of Montenegro”, No. 40/08 dated 27.06.2008)

The Law on Execution of Criminal Sanctions (“Official Gazette of Montenegro”, No. 25/94 dated 12.07.1994, 29/94 dated 26.08.1994, 69/03 dated 25.12.2003, 65/04 dated 25.10.2004)

The Law on Extra-Judicial Proceeding (“Official Gazette of Montenegro”, No. 27/06 dated 27.04.2006)

The Law on Police (“Official Gazette of Montenegro”, No. 28/05 dated 05.05.2005)

The Law on Central Registry (“Official Gazette of Montenegro”, No. 47/08 dated 07.08.2008)

The Law on Asylum (“Official Gazette of Montenegro”, No. 45/06 dated 17.07.2006)

The Law on Personal Name (“Official Gazette of Montenegro”, No. 47/08 dated 07.08.2008)

Montenegrin Citizenship Law (“Official Gazette of Montenegro”, No. 13/08 dated 26.02.2008)

The Law on Ombudsman (“Official Gazette of Montenegro”, No. 41/03)

The Law on Minority Rights and Freedoms (“Official Gazette of Montenegro”, No. 31/06 dated 12.05.2006, 51/06 dated 04.08.2006, 38/07 dated 22.06.2007)

The Law on Media (“Official Gazette of Montenegro”, No. 51/02, 62/02)

The Law on Radio-Diffusion (“Official Gazette of Montenegro”, No. 51/02, 62/02, 46/04, 56/04, 77/06, “Official Gazette of Montenegro”, No. 50/08 dated 19.08.2008)

The Law on Army (“Official Gazette of Montenegro”, No. 47/07 dated 07.08.2007)

The Law on Defence (“Official Gazette of Montenegro”, No. 47/07 dated 07.08.2007)

The Law on Non-Governmental Organisations (“Official Gazette of Montenegro”, No. 27/99, 09/02, 30/02, “Official Gazette of Montenegro”, No. 11/07 dated 13.12.2007)

The Law on Public Order (“Official Gazette of Montenegro”, No. 41/94)

The Law on Execution Procedure (“Official Gazette of Montenegro”, No. 23/04 dated 05.04.2004)

The Law on Environment (“Official Gazette of Montenegro”, No. 48/08 dated 11.08.2008)

The Law on Mediation (“Official Gazette of Montenegro”, No. 30/05 dated 13.05.2005)
