



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Third periodic report submitted by Montenegro
under article 19 of the Convention pursuant to the
optional reporting procedure, due in 2018** ****

[Date received: 7 August 2018]

* The second periodic report of Montenegro (CAT/C/MNE/2) was considered by the Committee at its 1224th and 1227th meetings, held on 7 and 8 May 2014 (see CAT/C/SR.1224 and 1227). Having considered the report, the Committee adopted concluding observations (CAT/C/MNE/CO/2).

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



1. Since Montenegro accepted the simplified reporting procedure, the Committee against Torture submitted a list of questions, and answers to the submitted list of questions will constitute the Third Periodic Report of Montenegro in accordance with Article 19 of the Convention.

2. These is a response to the list of questions prior to the submission of the Third Report of Montenegro (CAT/C/MNE/QPR/3) and an overview of activities taking into account conclusions and recommendations contained in Concluding Observations of the CAT (CAT/C/MNE/CO/2) of 16 May 2014.

Reply to paragraph 1 of list of issues prior to reporting

Reply to paragraph 1 (a), (b)

3. Persons deprived of their liberty are brought before state prosecutor without delay, no later than 24h from the deprivation of their liberty. Police officers prepare an official note on deprivation of liberty, submitted to the state prosecutor and specifying all the instructions the suspect had received from the police officers. Official note contains data to be provided to the family members of the deprivation of their liberty. Persons deprived of their liberty are informed by the competent state authority in their language or in language they understand about grounds for deprivation of their liberty, right not to make any statements, to counsel, to have a counsel present at the hearing and to agree with counsel on the defence method, and to request that information on deprivation of their liberty is communicated to a person of his/her choosing and to a diplomatic-consular representative of a State whose nationals they are or to representative of international organisation if they are stateless persons or refugees.

4. In order to achieve legality of the proceedings against persons deprived of their liberty who are detained based on state prosecutor's decision, a form for the records of holding persons deprived of their liberty has been developed. It contains information about all aspects of holding a person, i.e. from admission, placement on holding premises, confiscation of personal belongings, providing meals, possible medical assistance, appeal against the decision on holding, possible injuries observed during the transfer of the person; and a part of the records related to the surrender of the person held to the competent authorities for further action (IECS,¹ courts, other authorities dealing with internal affairs), and information on the right to legal aid, according to the Law on Legal Aid.

5. When held, persons receive a so-called "Information Sheet for the Person Held" in their own or in the language they understand indicating all their rights, such as right to a counsel, to a physician.

6. The Protector wrote reports in capacity of NPM, adopted by the Parliament of Montenegro, where identified certain inconsistencies in practical application of the regulations regarding obligation to deliver information sheet to all persons deprived of their liberty; and gave a recommendation in that regard.

Reply to paragraph 1 (c)

7. State prosecutor immediately advises a person deprived of liberty on his/her right to counsel and to inform counsel of his/her deprivation of liberty by phone or other means of electronic communication, directly or through his/her family members. If necessary, state prosecutor is obligated to retain a counsel for the person deprived of liberty. Person deprived of liberty is given 12h deadline to ensure presence of a counsel (starting from the moment when he/she has been instructed about this right) Instruction of these rights is included in the hearing records of the suspect that contain signature of that person serving as a proof that he/she is informed of such rights.

8. The right to mandatory defence is also exercised by the accused who has been detained, while he/she is still held in detention; suspect interrogated by the police or representatives of state authorities for customs affairs in the preliminary hearing must have

¹ Institute for Execution of Criminal Sanctions.

a counsel, while suspect also must have a counsel when the state prosecutor issues detention order.

Reply to paragraph 1 (d)

9. Electronic database “On-call Service”² established at all the police stations and in police branch offices is used for recording on all persons whose liberty was either restricted or deprived on any grounds.

10. All competent courts keep records of the persons deprived of liberty through the control sheet of detainees,³ kept as a special register and containing names of persons held in detention; for persons during investigation phase and for persons who have been indicted.

11. In detention units of IECS, in investigative prisons in Podgorica and in Bijelo Polje, there is one record called detainees’ register.⁴

Reply to paragraph 1 (e)

12. Persons deprived of liberty and persons held may, at their request, receive medical assistance, upon the call made by police officers. The provided medical assistance is recorded on the detainee’s file, which is authenticated by a medical team with a physician’s signature and seal of the emergency aid service.

13. When a person deprived of liberty is brought before state prosecutor, that person is entitled to medical examination by physician when he/she requires or is required by his/her counsel or his/her common-law spouse. The report on medical examination is attached to the case files (Article 268 of the Criminal Procedure Code).

14. Health care is provided to the detainees at the outpatient clinic of the Investigative Prison. Immediately after being admitted to the detention facility, medical examination is performed and medical record is compiled. Medical examination is also performed when detainee is released. If there are no conditions for successful treatment of a particular disease, detention physician refers detainee to the public health care institution. That is immediately communicated by detention physician to the court president who is authorised to exercise supervision of detainees. Detained pregnant women and postpartum women are provided with special care, in accordance with the health care regulations.

15. Regular medical examinations are performed every working day in accordance with a special schedule established by prison physician. In the cases of emergency, detainee will be referred to the medical examination without delay. Detainee, upon approval by investigative judge, will be examined by the physician of his/her choice.

Reply to paragraph 1 (f)

16. Pursuant to Article 16 of the Law on Internal Affairs natural and legal persons are entitled to file complaint of the police officer’s work if they believe that police officer violated some of their rights or caused them harm while performing his/her duty, within six months from the day when harm has been caused, or when their rights or freedoms have been violated.

² The records contain personal data, legal basis for deprivation of liberty, decision number and date, information on the authority that issued the decision, names of the authorised police officers who surrendered and took over the person, date and time of releasing or bringing the person before competent authority and information on food and requirements for medical assistance.

³ The register specifies identity of the person deprived of liberty, date, time and place of deprivation of liberty, identity of the authority that ordered deprivation of liberty and that deprived the person, grounds for deprivation of liberty, date of release, and a space for remarks regarding deprivation of liberty and release.

⁴ This register includes name of detainee, date of deprivation of liberty, court which ordered detention, decision number and grounds for imposing detention, and date until which the detention lasted and when it was terminated.

17. Police is obligated to submit written response to the complainant, within 30 days from the day of receiving the complaint. Complainant will be given the possibility to participate in the process of verifying and establishing facts related to the complaint.
18. If the complainant is not satisfied with the response or does not receive response within 30 days, complainant may address the Ministry of Interior, within 15 days from the day of receiving response, or upon expiry of the deadline.
19. There were no complaints filed by persons deprived of liberty in respect of overstepping of powers by police officers that initiated disciplinary proceedings.
20. Under Article 12 of the Law on Execution of Prison Sentences, Fines and Security Measures each inmate has the right to file complaint to the head of IECS, in order to protect rights and interests during the period of serving prison sentence or 40-year prison sentence.
21. Head of IECS is obligated to investigate claims in the complaint and to render decision within 15 days from the day of receiving complaint. The decision is delivered to the inmate without delay. IECS will ensure that illiterate inmate can also file complaint, in accordance with the law governing administrative procedure.
22. Inmate has the right to appeal decision to the Ministry of Justice within eight days from the day of receiving decision, who decides on the appeal within 15 days from the day of receiving appeal.
23. Administrative dispute may be initiated against the decision, and if the decision has not been rendered within the set time-limit.
24. There were no complaints of overstepping of powers by police officers that initiated disciplinary proceedings.
25. See responses under 3 c and d.

Reply to paragraph 2 of list of issues prior to reporting

Reply to paragraph 2 (a), (b)

26. Since Montenegrin legislation sets out that criminal acts involving war crimes are never barred by the statute of limitations, and aiming to fight impunity, the Montenegrin State Prosecution Service took actions from 2014–2018 to resolve these cases and to criminally prosecute their perpetrators.
27. In the reporting period, five cases involving war crimes were processed.
28. Out of that number, criminal proceedings were initiated in one case (working title: Zmajević case) against one person. Trial is still ongoing. The accused is charged with having committed war crime against civilians on the territory of the Republic of Kosovo.
29. Preliminary enquiries are being conducted in four cases to establish whether there exist substantial elements of essence of the criminal acts involving war crimes and culpability of certain persons.
30. In addition, the Special State Prosecutor's Office (SSPO) also formed cases based on letters rogatory for the provision of mutual legal assistance in criminal matters.
31. There were no cases in which decisions were issued on the protection of witnesses with regards to the mentioned cases and no victims requested the protection.

Reply to paragraph 2 (c)

32. There were no examples of threat or intimidation of witnesses in war crime cases, nor criminal proceedings were conducted against certain persons.

Reply to paragraph 2 (d)

33. All cases of reparation to war crime victims before Montenegrin courts were finally solved. A total of 5,714,656.20 EUR were awarded. Five claims were rejected, four proceedings were cancelled, while in 20 cases claims were withdrawn.

34. Regarding “Morinj” case, the courts have passed 154 decisions, adopting the claim and awarding 1,485,510.20 EUR. By the means of one decision, a claim was rejected, four proceedings were cancelled, while in six cases claims were withdrawn.

35. “Deportation” case – court settlement was concluded in 42 cases, by which Montenegro committed to pay plaintiffs, on behalf of both overall material and non-pecuniary damage, the amount of 4,135,000.00 EUR.

36. “Štrpci” case – there were three cases. The claim was adopted in all three cases. Out of them, in two cases damages amounting to 61,146.00 EUR were awarded, while in the third case, 4,200,000.00 RSD or 33,000.00 EUR. In all three cases, the decisions are final.

37. “Bukovica” case – there were three cases for which claim was rejected as ungrounded. The decisions are final.

38. “Kaludjerski Laz” case – there were 15 cases. In one case the claim was rejected, while in 14 cases, the claim was withdrawn. The decisions are final.

Reply to paragraph 2 (e)

39. In Montenegro, there are no cases of mass cemeteries from armed conflicts on the territory of former SFRY.

40. The Committee for Missing Persons (CMP) of the Government of Montenegro and Special State Prosecution (SSP) of Montenegro – Division for War Crimes take part in the project “Enhancing Regional Cooperation in Processing of War Crimes and Search for Missing Persons” (2017–2019), to be implemented by UNDP and aimed to increase efficiency and effectiveness of cooperation among prosecutions of former FRY republics in processing of war crimes, including further enhancing capacities for the search of persons missing during conflicts.

41. Cooperation Protocols were signed with the CMP of the Republic of Kosovo (22 October 2015) and CMP of the Republic of Croatia (22 December 2017).

42. All data on the work of the CMP, are published on the website of the Government and the Ministry of Labour and Social Welfare.

43. Supreme State Prosecutor has adopted the Strategy for the Research of War Crime, stating that is necessary to enhance the fight against impunity for war crimes by more efficient research, prosecution, trial and punishment in compliance with international standards. In 2016, the representatives of the SSP, High and Supreme Court, as well as Police Administrations (PA), were introduced to the manner of using the database of International Criminal Tribunal for former FRY.

Reply to paragraph 3 of list of issues prior to reporting**Reply to paragraph 3 (a)**

44. Law on Internal Affairs prescribes that internal control of the police shall be conducted by a special organizational unit of the Ministry of Interior – Department for Internal Control of the Police, with the task to conduct the control of legality of performing police affairs, especially in terms of respect and protection of human rights during the execution of police assignments and application of police powers, implementation of the procedure of counterintelligence protection and other control important for efficient and legal work.

45. Protector of Human Rights and Freedoms of Montenegro, in acting upon claims, as autonomous and independent authority undertakes measures for the protection of human rights and freedoms. However, status B, assigned to the Institution within accreditation

procedure of International Accreditation Authority, indicates the shortcoming in legislation that negatively reflect its autonomy and independence.

46. Other independent authorities engaged in investigations are Parliamentary Security Committee and the Council for Civil Control of Police Work.

47. The function of civil control of police work is the assessment of the execution of police powers, protection of rights and freedoms of citizens, effective implementation of Law on Internal Affairs and other related national regulations, as well as the contribution to further development of police service and improvement of public trust. The citizens and police officers may address the Council, composed of five members appointed by: Bar Association, Chamber of Doctors of Medicine, Association of Lawyers, University of Montenegro and NGOs dealing with human rights. The Council provides assessments and recommendations submitted to the minister of interior, who is obliged to report back on taken measures.

48. State Prosecution (SP) performs the affairs of prosecution of offenders for crimes prosecuted ex officio. In order to exercise the function of prosecution of offenders, SP is authorized to identify and take necessary measures with competent authorities to detect criminal offences and their offenders.

49. SP is obliged to investigate all allegations on torture, abuse and excess use of power by the police, prison staff, security and military officers, as these are criminal offences for which prosecution is undertaken ex officio.

50. The Constitution of Montenegro prescribes that the Prosecution Council shall ensure independence of SP, while the Law on SP prescribes the affairs of state prosecutions may not be performed under any influence and nobody may influence the work of state prosecution.

51. In cases of torture, abuse and excess use of power, there is neither hierarchical nor institutional relationship between the offenders of these crimes and state prosecutors, as investigators of these crimes. All state authorities, pursuant to the Criminal Procedure Code, shall act upon the request of state prosecutor, while they shall report competent state prosecutor before each action taken.

52. In this way the independence of state prosecution is ensured in acting in criminal cases for all crimes, so as for the crimes of torture, abuse and excess use of power.

Reply to paragraph 3 (b)

53. Functional and organizational independence of the Department of Internal Control of the Police is ensured by its positioning in the Ministry of Interior (out of PA), which is confirmed by the facts that the head of Department reports directly to the minister of interior, and there is neither hierarchical nor organizational relationship between the officers of internal control of the police with police officers of PA, whose work is being supervised.

54. In cases in which, following conducted investigation, it is determined that in action of police officers there were severe violations of official duty, activities are taken in view of initiation of the proceeding for determining police officer's disciplinary responsibility.

55. Disciplinary proceeding in such cases, upon the proposal of the head of internal police control, is initiated by disciplinary prosecutor, and conducted by the Council of Disciplinary Committee which proposes the decision to the minister.

56. In this respect, there are two separate and different proceedings (proceeding of internal control of police and disciplinary proceeding) which are ensured full autonomy and independence by the Law on Internal Affairs, Rulebook on the proceeding for determination of police officers' disciplinary responsibility and Rulebook on internal organization and job scheme of the Ministry of Interior.

57. If in the same case, following the investigation, it is determined that there is a suspicion that in police officers' actions were elements of criminal offences of abuse or other criminal offence for which there is a prosecution ex officio, the report on conducted

internal control, together with case files are submitted to SP, for further proceeding and decision making on the existence of elements of criminal offences in police officer's actions, i.e. initiation of the proceeding for determination of criminal responsibility of a police officer.

58. Moreover, in cases in which, within conducted internal control proceedings, there were no detected evidence and undisputed facts on illegal and excess use of power by police officers, report on conducted internal control and case files are submitted to SP for further proceeding, final assessment and decision making on the existence of elements of criminal offence in police officers' actions.

59. IECS immediately upon being informed about the allegations on the abuse of prisoners, reports to institutions – PA and prosecution, to take over actions and measures and determine the allegations on abuse.

60. Disciplinary authorities conducting the proceeding against police officers regarding the cases of torture and abuse, report state prosecutor only when disciplinary authority considers there is a grounded suspicion that criminal offence was committed, for which prosecution is conducted ex officio.

Reply to paragraph 3 (c)

61. In the following text, there are data on cases regarding the excess use of power, disaggregated by years, and location.

2014

Prison

62. 2 cases against three persons. Applicants:

- 1 case based on the charge of an injured party;
- 1 case based on the charge of PA.

63. In these cases there were three male injured parties; Prosecutor conducted investigation and took over certain evidence actions. Following the investigation:

- In 1 case – charge against one person was adopted, against whom a conviction was passed (suspended sentence);
- In 1 case – charge was rejected.

Police

64. 9 cases against 24 persons. Applicants:

- 1 case based on criminal charges of PA;
- 1 case based on case file of the Department for Internal Control of the Police;
- 6 cases based on charges of injured parties;
- 1 case by prosecutor on his/her own initiative.

65. In these cases there were 10 injured persons in total, 9 men and 1 woman. Following the investigation:

- Criminal charge was submitted in 3 cases against 3 persons, out of which in 2 cases convictions were passed (suspended sentences), while in 1 case against 1 person there was an acquittal (still not final);
- In remaining 5 cases, criminal charges were rejected.

2015

Prison

66. 2 cases against 11 persons. Applicants:

- 2 cases were created by prosecutor on his/her own initiative. In these cases there were 12 injured male persons.

67. Following the investigation:

- In both cases prosecutor submitted criminal charge/issued indictment against 11 persons, out of which, in one case against 10 persons the trial is still ongoing, while the other case resulted in a conviction against one person – sentence to prison term of 5 months.

Police

68. 18 cases, out of which 9 against unknown offenders (related to demonstrations held in October 2015), and 9 cases against 24 persons. Applicants:

- 1 case based on charge of PA;
- 3 cases by prosecutor at his/her own initiative;
- 14 based on charges of injured parties.

69. In these cases there were 18 injured persons – 15 men and 3 women. Following the investigation:

- In 4 cases the prosecutor submitted criminal charge against 9 persons, out of which in one case against 1 person trial is still ongoing, convictions were passed in 2 cases against 3 persons (2 persons were sentenced to prison term of 1 year and 5 months and one persons by suspended sentence), while 1 case resulted in a conviction against 2 persons (suspended sentence), while 2 persons were released from the charge;
- Criminal charges were rejected in 5 cases;
- In 9 cases offenders remained unknown.

2016

Prison

70. 2 cases against 6 persons. Applicants:

- Both cases based on the charge of injured persons; in these cases injured persons were 2 male minors. Following the investigation:
- In 1 case the prosecutor submitted criminal charge against 2 persons, against whom a conviction was passed (prison term of 4 months and 3 months), while prosecutor withdrew further criminal prosecution against 2 persons;
- Criminal charge was rejected in 1 case.

Police

71. 12 cases, out of which two were against unknown offenders, while 10 were formed against 20 persons. Applicants:

- 9 cases based on the charge of injured persons;
- 3 cases by prosecutor at his/her own initiative.

72. In these cases there were 13 injured persons – 12 men and one woman. Following the investigation:

- In 4 cases the prosecutor submitted criminal charge against 6 persons, out of which there are ongoing proceedings in 2 cases against 3 persons, a conviction was passed in 1 case against 1;
- Person (community sentence of 180 hours for 6 months), while an acquittal was passed in 1 case against 2 persons;
- Criminal charges were rejected in 7 cases;

- In one case offender remained unknown.

2017

Prison

73. 1 case against 2 persons. Applicants:
- 1 case was created by prosecutor at his/her own initiative. In this case there was 1 injured male person.
74. Following the investigation:
- Criminal charge against 2 persons was filed and the court proceeding is ongoing.

Police

75. 21 cases created, out of which 1 case against unknown offenders, while 20 were against 35 persons. Applicants:
- 3 cases based on police charges;
 - 1 based on the charge of IECS;
 - 8 by prosecutor at his/her own initiative;
 - 9 based on the charges of injured persons.
76. In these cases there were 33 injured persons – 32 men and 1 woman. Out of 32 men, there are 4 minors. Following the investigation:
- Charges were filed in 8 cases against 14 persons. Out of that number, in 1 case against 1 person judgement was passed based on the agreement on guilt recognition (community service of 180 hours for 6 months), one person in one case was convicted with suspended sentence, in one case against three persons decision was adopted on accepting the agreement on guilt recognition, while in other cases there are ongoing proceedings;
 - Criminal charges were rejected in 10 cases;
 - There are ongoing investigations in 2 cases;
 - In one case offender remained unknown.

2018 (01/01–26/03/2018)

Prison

77. No created cases.

Police

78. 6 cases against 14 persons. Applicants:
- 4 created by prosecutor at his/her own initiative;
 - 2 based on charges of injured persons.
79. In all cases the prosecutor conducted investigation and took over certain evidence actions, out of which criminal charge was filed in 1 case against 1 person.
80. Since 2014, there have been no cases of torture or abuse of imprisoned persons reported by doctors during their medical examinations.

Reply to paragraph 3 (d)

81. In 2014, there were not registered cases; in 2015 – two police officers were removed from duty until final completion of criminal proceeding; in 2016 – one case; in 2017 – following acquittal, removal from duty was terminated for two police officers; In the reporting period, five police officers were removed from duty due to torture and abuse. Due

to severe breach of duty, pursuant to the Law on Internal Affairs, one disciplinary measure of assigning to another lower working position was pronounced, for the period of two years. The decision is not final.

82. Since 2014, 2 disciplinary proceedings were initiated and completed against 3 prison officers due to excess use of power – in one disciplinary proceeding against 2 officers and in one proceeding against 1 officer. On 19/01/2015, the incident that happened between prisoners from Detention and Rehabilitation Centre Podgorica and two prison officers in charge of guiding imprisoned persons, disciplinary responsibility of the officers was established in disciplinary proceeding and they were pronounced disciplinary fine: one officer was fined for three months in the amount of 20% from the salary, and another for six months in the amount of 30% from the salary, and prison term of 5 months in criminal proceeding which he served. In another disciplinary proceeding against one officer in August 2017, disciplinary responsibility was established and disciplinary measure was pronounced as a fine of 3 months in the amount of 30 % from the salary.

Reply to paragraph 3 (e)

83. In view of fight against impunity, attitudes and recommendations expressed in the verdict of the ECHR, “Milić and Nikezić against Montenegro”, SP has been taking all measures to investigate all cases of torture and abuse in prison and police premises. For prosecutors formal application or appeal of injured party is not necessary, the prosecutor reacts even upon oral notifications and information on possible torture and abuse. Prosecutor reacts in situations when a detained person or prisoner appears before the prosecutor with evident injuries, initiating investigation whether torture and abuse took place and how the injuries of detained persons or prisoners incurred. Proactive action of prosecutors is confirmed by the number of cases created upon the initiative of prosecutors due to the suspicion of the existence of torture or abuse.

Reply to paragraph 4 of list of issues prior to reporting

84. The offender of criminal offence of torture may be any person by which incrimination the Criminal Code of Montenegro (CC) extends the term of torture prescribing that the offender of the basic form may be any person, and if committed by an official it is qualified form of this offence, and more severe prison term is prescribed.

85. The Government considers the issue of the range of penalties and non-applicability of statutory limitations to criminal offences in the CC as a very important segment of criminal legislation. Its intention in the coming period is to perform analysis of the range of penalties and non-applicability of statutory limitations to criminal offences in the CC, which will show in a methodologically detailed manner whether and in what part there is a discrepancy of the range of prescribed penalties and non-applicability of statutory limitations to criminal offences in the CC in respect of individual criminal offences, taking into account comparative experiences, and particularly experiences of EU Member States.

86. Based on the results of analysis, the Government will engage in systemic harmonisation of the range of penalties and in resolving the issue of non-applicability of statutory limitations to certain criminal offences, including criminal offence of torture, which would properly and thoroughly regulate this matter.

Reply to paragraph 5 of list of issues prior to reporting

Reply to paragraph 5 (a)

87. Law on International and Temporary Protection of Foreigners as of 1 January 2018, prescribes that a foreigner seeking international protection and a foreigner in transfer shall exercise right to free legal aid in administrative procedure, upon personal request, if: they do not have money or belongings of high value, and filed charge is not obviously ungrounded. Legal aid encompasses: assistance in creating a charge, representation before Administrative Court and release from paying costs of administrative dispute. NGO dealing

with free legal aid provision to foreigners seeking international protection and foreigner in transfer may provide legal aid in the proceeding upon the request for international protection before the Ministry.

Reply to paragraph 5 (b)

88. Free legal aid entails the provision of needed funds for full or partial coverage of costs of legal consulting, creation of enactments, representation in the proceeding before court, State prosecution and Constitutional Court of Montenegro and in the proceeding for out-of-court settlement of disputes and before civilian enforcement officer including the release from paying the costs of court proceeding. The costs for the engagement of attorneys at law in the procedure of the provision of free legal aid before all courts are the following: in 2017 – 211,074.78€; 2016 – 156,206.76 €; 2015 – 117,745.34€; and in 2014 – 64,860.33 €.

Reply to paragraph 5 (c)

89. The association of judges of Montenegro published a brochure on the right to free legal aid and info flyer and submitted to basic courts, centres for social work and post offices, for all potential beneficiaries. Television of Montenegro organized the reportages and visits of professionals who provided explanations to citizens on the right to free legal aid. Also, lectures were organized on this topic at law faculties of Montenegro.

Reply to paragraph 6 of list of issues prior to reporting

90. The institution⁵ of the Protector has 31 employees together with the Protector and deputies. In 2015–2017 the Protector continued with the implementation of activities on

⁵ Comment of the Protector: Law on the Amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro from 2014 derogates the autonomy and independence of the institution in the following: Article 16 specifies that the form and content of the identity shall be determined by the state administration body in charge for human and minority rights (Ministry), not the Protector independently, as it was the case prior to the adoption of this Law. Article 25 d paragraph 2: the amount of remuneration of the members of the working body shall be determined by the Government regulation, not by the Protector independently, in compliance with the funds allocated by the Budget. Article 40 paragraph 2 witnesses or hired experts from the relevant fields invited by the Protector are entitled to remuneration or reimbursement of expenses in accordance with regulations governing the remuneration and reimbursement in judicial proceedings, which is not characteristic of the proceeding of the Protector, and the Protector does not have determined right to independently define the amount of this remuneration, in accordance with available funds. Article 43a paragraph 1 the obligation of the NPM to create minutes on the visit signed by the representative of a body or other institution visited, which compromises the confidentiality of the visit, and is not in compliance with OPCAT, while paragraph 6 of the same Article specifies that the Protector “is obliged” to perform control check after the visit, regardless of whether there is a need or not, i.e. the Protector is not autonomous in planning control visits. Article 51b paragraph 6 that employment at the Protector shall be carried out in compliance with the Law on Civil Servants and State Employees, which means that the Protector is not autonomous and independent in establishing the team, but the whole process is conducted by the Human Resource Administration, as integral authority of the Ministry of Public Administration – the selection is done by the Commission composed of 3 members, out of whom two members are from state administration, and only one member is delegated by the Protector, which directly affects their autonomy and independence. Article 53 paragraph 4 the Protector shall dispose of funds autonomously, but according to the dynamics specified in compliance with the Law on Budget, which actually means according to the decision of the MF, not autonomously. According to the Law on Remunerations in Public Sector the Protector and deputies lost financial position analogically with the president and judges of the Constitution Court, which they had since the foundation of this institution to the adoption of the Law. Remuneration of the president of the Constitution Court is defined by coefficient 25.94, remuneration of the Protector by 22.48, remunerations of the judges of the Constitution Court by 22.48, and remunerations of deputies of the Protector by 20.75, which directly derogates Constitutional position of the institution of the Protector. In the same Law, in Articles 17 and 21, the right of the Protector, as independent institution, to autonomously define remuneration for performance of tasks at certain workplaces (field work and work under aggravating circumstances of the NPM and variable part of remuneration, is omitted and it remained within the responsibility of the

capacity building both through new employment (11 new employees), and strengthening knowledge and skills of the existing staff, especially in the area of the protection from discrimination and torture prevention. Adequate workspace is ensured. Working team of the NPM was established and is composed of experts from certain fields (psychology, psychiatry, court medicine, penology, etc.). The budget ensures funds for work in all areas of protection, including torture prevention and anti-discrimination, although these funds should be increased for promotional activities and research. However, Law on Foreigners was adopted in January 2018, prescribing new obligation for the Protector, as the NPM, to monitor each implementation of forced return of foreigners and forced return of Montenegrin citizens who illegally reside in the EU member states. The Protector has neither staff nor financial capacities for this duty. The capacities of the Institution should be strengthened in this regard. The Institution currently has 4 deputies: for general issues, protection from torture, trial in reasonable terms and NPM, child issues and social protection and the issues of protection from discrimination, and this number is not limited.

91. Amended Law on the Protector of Human Rights and Freedoms from 2014 significantly improved the autonomy and independence of Institution and financial position of the employees, equalizing them with the employees of the Constitutional Court. New Rules on the work of the Institution were adopted and aligned with amended legal provisions. The Protector is not obliged to obtain certificate on ensured funds from the minister in charge of budget affairs for establishing employment, rights, obligations and responsibilities of the employees (chief advisers – Article 51b). The Protector independently decides on the allocation of funds, in line with dynamics defined by the Law on Budget.

Reply to paragraph 7 of list of issues prior to reporting

92. A single system of the judges' selection on the national level was established by the Law on Court Council and Judges, including system of permanent voluntary horizontal displacement based on incentives, criteria for the promotion of judicial functions holders were improved, periodical evaluation was introduced and the proceeding of disciplinary responsibility was revised and the system of disciplinary misdemeanours.

Government upon the proposal of the ministry. Law on Amendments to the Law on Discrimination Prohibition from 2017 additionally strengthened the institution of the Protector through the authorization to initiate the proceeding for the protection from discrimination before court for individual cases of discrimination or intervene in such proceeding when the Protector estimates that the act of defendant was discriminatory and it might cause particularly severe breach of human dignity. Also the law transferred evidence provision in proceeding before the Protector to the defendant. Law on the Budget of Montenegro for 2016, in the part related to the Protector of Human Rights and Freedoms of Montenegro, allocated the funds amounting to 685,782.25 €, which is 154,327.71 € more than in the previous year, while for 2017 allocated funds 655,117.87 €. The increases are mainly related to gross remunerations and contributions paid by employer, in compliance with the Law on Remunerations of the Employees in Public Sector. The procedure of appointment and proposal of the Protector is regulated in a manner by which the President commits to conduct wide range consultations with scientific and professional institutions, bodies and representatives of NGOs tackling the issues of human rights and freedoms., the procedure for the appointment of the Protector is initiated not later than 60 days until the expiration of the term of office of the Protector. the issue of functional immunity involves the Protector, deputies and advisors: "The Protector, Deputy Protector, Chief Advisor to the Protector and Adviser to the Protector cannot be held responsible for an opinion or recommendation given during the exercise of their functions, or for acting in accordance with the competencies and powers stipulated by this Law during the term of office, or during the course of employment." This provision ensures permanent protection of persons employed at the institution of the Protector from any sanctions or unfavourable consequences they may possible suffer due to provided opinions and recommendations or acts in compliance with their powers prescribed by law. The powers of the Protector, as the NPM, in performing the affairs of protection from torture are also extended, as the visits to the institutions of a closed nature, upon the authorization of the Protector, may be done by advisers and members of the Working body, and they do not need to announce their visit in advance to the authority, institution or organization.

93. Pursuant to Article 268 paragraph 6 of the Criminal Procedure Code, where a liberty-deprived person is brought to the SP that person, his/her defense attorney, family member, or partner in a customary marriage may request that the SP allow a medical examination of the detainee. The decision on appointing a doctor for medical examinations and the record on the detainee's hearing shall be enclosed in criminal case file by the SP. According to Article 22 of the Law on the Enforcement of Prison Sentence, Fine or Security Measure when appearing to serve the prison term or prison term of forty years, the identity and medical condition of a convict shall be identified.

94. Furthermore educational trainings are undertaken and a seminar "Impunity from the aspect of practice of the ECHR is organized.

95. In all cases when detained or imprisoned persons inform a prosecutor on possible abuse by police or prison officers, prosecutors shall immediately interrogate persons regarding such circumstances, order bodily check and expertise carried out by court expert of medicine. Indicator that prosecutors act in this way is the number of cases created at the initiative of prosecutors, due to the suspicion on abuse against detained or imprisoned person.

96. In this respect prosecutor created:

- In 2014, 1 case in which one criminal charge was filed and a conviction was passed;
- In 2015, 5 cases, out of which accusation was filed in 3 cases, in two cases convictions were passed, and there is an ongoing trial in one case;
- In 2016, 3 cases;
- In 2017, 9 cases out of which accusation was filed in two cases and in both convictions were passed;
- Within the period from 01/01–23/03/2018 6 cases.

Reply to paragraph 8 of list of issues prior to reporting

Reply to paragraph 8 (a)

97. In 2014, there were 140 final decisions for criminal offence violence in family or family community referred to Article 220 of the CC. Out of that number, 120 persons were convicted, 7 acquitted, and verdict on abandonment was passed against 11, proceeding was terminated against 3 persons, 74 were convicted with suspended sentences, 26 with prison terms, 7 with community service, 9 were fined, court warning was issued to 2, while security measures were pronounced for 8 persons.

98. Final decisions for criminal offence violence in family or family community referred to Article 220 of the CC of Montenegro as follows:

99. In 2015, there were 156 final decisions. Out of that number, 137 persons were convicted, 6 released, verdict on abandonment was passed against 11, proceeding was terminated against 1 person, the decision on abandonment was adopted for one person, 78 were convicted with suspended sentences, 47 with prison terms, 10 with community service, 2 were fined, court warning was issued to 2, while security measures were pronounced for 11 persons.

100. In 2016, 193 final decisions. Out of that number, 181 persons were convicted, 6 released, verdict on abandonment was passed against two persons, the proceeding was terminated against 4, 82 were convicted with suspended sentences, 63 with prison terms, 15 with community service, 6 were fined, court warning was issued to 3, while security measures were pronounced for 36 persons.

101. In 2017, 109 final decisions Out of that number, 105 persons were convicted, 3 released, verdict on abandonment was passed against one person, 46 were convicted with suspended sentences, 40 with prison terms, 8 with community service, 4 were fined, court warning was issued to 3, while security measures were pronounced for 12 persons.

102. The percentage of prison sentences increased in the period 2014–2017. Namely, in 2014, such percentage amounted to 27%, 2015 – 40.25%, 2016 – 35.5% and 2017 – 50.25%.

103. In one case there was criminal offence of domestic violence with death consequence in which prison term of 8 months was pronounced.

Reply to paragraph 8 (b)

104. Centres for Social Work provide substantial and non-substantial support to violence victims, i.e. advisory support and information on their rights. Since September 2017, there is a possibility of addressing domestic violence victims to Family Counselling Centre of the Centre for Social Work Podgorica, within the capital city and municipalities of Golubovci and Tuzi. Currently, there are five domestic violence victims in the Family Counselling Centre.

105. Pursuant to the Free Legal Aid Law, victims of domestic violence or violence in family community and human trafficking in compliance with law regulating the protection from domestic violence, are entitled free legal aid, while the victims of other forms of violence are entitled to aid without the estimation of their material condition.

106. Pursuant to Article 24 of Istanbul Convention, Montenegro founded free SOS telephone line covering entire country, to advise callers, confidentially by keeping their anonymity, regarding all types of violence covered by this Convention.

107. This SOS line became operational in 1 September 2015.

108. There are Multidisciplinary operational teams for the protection from domestic violence and violence against children in all Centres for Social Work.

Reply to paragraph 8 (c)

109. Ministry of Interior established Operational team for the fight against domestic violence and violence against women, aimed at strengthening police capacities to work with children. The task of the team is consideration of recent practice and analysis of specific cases, definition of further guidelines for action and improvement in the area of prevention and combating domestic violence. This body functions on the principle of strengthening coordination and establishment of a single practice. Additionally, the team will target challenges in order to address them.

110. Pursuant to Article 10 of Istanbul Convention, in May 2017 Montenegro established Coordination Board for the coordination, implementation, monitoring and assessment of policies and measures for the prevention and fight against all types of violence covered by the Istanbul Convention. Coordination Board will, collect data pursuant to Article 11 of the Istanbul Convention, conduct analyses and require data, clarifications and reports from competent state authorities and other institutions on the issues related to the Convention's implementation

Reply to paragraph 8 (d)

Training on domestic violence for judges and state prosecutors

2014–2018

- “Approach to justice for domestic violence victims”;
- “Anti-discriminatory legislation in Montenegro with a special focus on obligations of Montenegro in accordance with CEDAW and Istanbul Convention”;
- Istanbul Convention”;
- “Domestic violence and risks for children – according to a comprehensive solution”;
- Training for professionals on the protection of children from domestic violence;
- “Application of Law on Protection from Domestic Violence”.

111. Bureau for Social and Child Protection, supported by UNICEF, in October 2015, organized seminar “Instructions on work of multidisciplinary team for the protection from violence against children and domestic violence”.

112. Ministry for Human and Minority Rights (MHMR)⁶ activities:

- Organizes trainings for journalists on gender equality and reporting in cases of violence against women and domestic violence annually;
- Continuously organizes training on fight against violence against women and domestic violence for teachers, professors and students;
- Training programme for teachers of civic education was licensed and entitled: “Gender equality in education with special focus on gender-based violence, non-violent forms of behaviour and conflict settlement”.

113. In view of the protection of beneficiaries of healthcare services from domestic violence, Ministry of Health adopted the Protocol on the prevention from domestic violence for healthcare system’s needs, available to all healthcare workers and associates who are obliged to adhere to it. Training on identification and reporting about violence was initiated in 2017. In September 2017, there was a training for paediatricians on “Sexual Violence over Children – Let’s Break the Silence”.

Reply to paragraph 9 of list of issues prior to reporting

Reply to paragraph 9 (a)

114. During 2014, PA identified two victims of human trafficking and accordingly filed two criminal charges against two persons for criminal offence of human trafficking referred to Article 444 of the CC.

115. Competent prosecution issued one indictment against one person for criminal offence of human trafficking referred to Article 444 of the CC. Competent courts pronounced one verdict on abandonment in the reporting period, while in one case, conviction became final.

116. In one case before Basic Court in Ulcinj there was a charge and verdict on abandonment for criminal offence of human trafficking for the purpose of sexual and labour exploitation.

117. In one case of the High Court in Podgorica there was a charge and conviction on prison term for criminal offence of human trafficking for the purpose of sexual exploitation.

118. There were no suspended sentences, fines and other types of criminal sanctions. In both cases the accused persons were not state officials.

119. In the case of the Basic Court in Ulcinj, at the main hearing held on 23/09/2014, basic state prosecutor gave up further criminal prosecution of the accused as the evidence on the conclusion of marriage between the accused and the injured party was presented.

120. Judgment abandoned the charge towards the accused K.A. that he committed criminal offence for which he was accused.

121. The judgment became final on 23/10/2014. The injured person was one adult female person – M.I. born in 1966 in Tuzla, the citizen of Bosnia and Herzegovina.

⁶ According to the research of (MHMR) in partnership with UNDP in Montenegro, with financial support of IPA 2014, “Research on Prevalence, Perceptions, Price and Multidisciplinary Response to Domestic Violence” (sample of 2000 women) – every second woman in Montenegro has experienced some form of violence by their husbands and/or partners, while every fifth woman in 2016 was a violence victim. During their lifetime, 20% women experienced at least one form of economic violence, 17% experienced at least one form of physical violence, 38% psychic and 7% sexual violence. Each year, MHMR conducts campaign of 16 days of activism of fight against violence against women and domestic violence and organized twelve campaigns in Roma settlements on the issue of violence against women and forced child marriages among RE population.

122. In the judgement⁷ of the High Court in Podgorica published on 18/11/2013, J.V. was pronounced guilty and sentenced to prison term of 3 years and 6 months due to criminal offence of human trafficking referred to Article 444/6 of the CC.

Criminal proceedings

123. During the reporting period, criminal proceeding was initiated before High Court in Podgorica for criminal offence of human trafficking, according to the indictment of High State Prosecution in Podgorica. The case was delivered to the High Court in Podgorica on 07/07/2017, with two accused persons, Montenegrin citizens, detained by the decision on detention and decision on extension of detention of 30/08/2017. Injured party is a female child age 12, and it is the case of sexual exploitation. Main hearing is ongoing. It is important to emphasize that criminal legislation of Montenegro prescribes as particular criminal offence extramarital community with person under age, which incriminates that if a parent, adoptive parent or tutor ensures a person under age to live in extramarital community with another person or induces them to do so, and if it is done out of greed, they shall be punished by a prison sentence from six months to five years.

124. Within the period 01/01.2014 to 23/03/2018, for this criminal offence there were 21 charges submitted, out of which bill of indictment was filed against 16 persons and 16 convictions were adopted, while decision on abandonment of criminal charge was adopted against five persons.

125. In 2014, there were two female persons residing in the shelter for human trafficking victims. One person resided within the period 19/03–30/04/2014, and another one currently residing was admitted on 12/12/2014. These are not Montenegrin citizens (Kosovo – illegal conclusion of marriage and Bosnia and Herzegovina – work exploitation in household).

126. 2015 – 3 juveniles, Roma population members, Montenegrin citizens (type of exploitation – illegal marriage).

127. 2016 – 3 juveniles, Roma population members, Montenegrin citizens (2 type of exploitation – illegal marriage and 1 begging/forced work).

128. 2017 – 4 persons – 2 juveniles and 2 adult persons, 3 Roma population members, Serbian citizens and 1 Montenegrin citizen (type of exploitation – illegal marriage).

129. 2018 – 1 juvenile, Serbian citizen.

Reply to paragraph 9 (b)

130. The state uses budget funds of the National Office for the Fight against Human Trafficking (FHT) to finance the functioning of the Shelter for victims and potential victims of human trafficking. Human trafficking victims are ensured the so-called initial recovery in the Shelter, through the provision of basic package of aid – food, hygiene stuff, medicines, clothes, footwear, and in accordance with specific needs of each individual victim, in cooperation with the employees in the Shelter, individual work plans are developed and implemented for victims, with the aim of their (re)integration. In 2014, in the Shelter there were 2 victims, in 2015 – 4, in 2016 – 3 in 2017 – 4 and in 2018 – 3. All victims were female and have equal treatment, regardless of whether they are Montenegrin or foreign citizens. The Shelter has the capacity to accommodate 15 persons, with the possibility of separate accommodation of adults and children.

⁷ Judgment became final on 14/04/2014.

The injured seven female persons (five adults and two minors):

- V.D, from Podgorica, born in 1971, housewife,
- R.A, Tivat, born in 1991, student,
- A.M, Kočani, Republic of Macedonia, born in 1989, worker,
- S.S, Kočani, Republic of Macedonia, born in 1989, bar tender,
- AD, Trebinje, Bosnia and Herzegovina, born in 1970, nurse,
- Under age S.M, Podgorica, born in 1994, part-time student and
- Under age P.D, Herceg Novi, born in 1996, student.

131. During the identification, the victim is offered a possibility to be accommodated in the Shelter. The victim is informed in a mother tongue of the country, town, current location, and that they are on a safe and secure place, where they will be provided with all assistance and support regardless of whether they will witness or not or take part in the process against trafficking criminals or a group, and that they have right to decide within 90 days.

132. Educational workshops are organized in the Shelter and are adapted to the age of victims. Social worker and employees in the Shelter inform a juvenile on all rights, procedures, proceedings in a language adapted to the age of victims. Competent social worker in the capacity of a tutor determines individual work plan adapted to the age, interests, personal possibilities and will of a juvenile.

133. Coordination body, established on the basis of national Agreement on Cooperation in FHT comprised of all competent institutions, considers all aspects of each individual case and make a decision in the best interest of a person.

134. Social and child protection to foreign citizens involves the right to one-time financial support and appointment of a tutor. Cooperation Agreement also defines mechanisms of support and protection especially for juvenile victims.

135. Mechanisms of support include: a) estimation of social-economic condition, as the basis for the allocation of one-time financial support and other forms of protection in compliance with law; b) determination of legal grounds for the appointment of tutors; c) creation of individual plans of protection to potential human trafficking victims in cooperation with other signatories of the Agreement.

136. Centres for Social Work will in all cases where exist a suspicion that a person is human trafficking victim apply identification standards, to respect right to: (a) privacy of potential victims, especially regarding personal and traumatic questions, if they do not serve to collect necessary data; (b) all information in the area of social and child protection and family relations, and in other possible procedures undertaken for their protection.

137. Ministry of Education, regardless of whether the child is accommodated in a family or in the institution, in terms of integrating in educational institutions, ensures support in compliance with Cooperation Agreement. Necessary costs related to the accommodation of educational institutions (dormitories) and access to education, especially vocational education and training which leads to the first occupation of a child, are covered by the Ministry of Education during their stay on the territory of the state.

138. Criminal Procedure Code prescribes the possibility of submitting property request incurred due to the execution of criminal offence. It may be related to the compensation of damage, return of belongings or annulment of certain legal business. In compliance with national legislation, the court shall adopt a decision on the request for the compensation of damage within criminal procedure if “the procedure would not be significantly prolonged”.

139. In the judgement, which pronounces the accused person guilty, the court may assign property request to authorized person fully or partially, and order litigation proceeding for the remaining part. If the court sends the injured party to the exercise of property request in litigation procedure, court protection is exercised before basic court as substantially competent court. Law on Contractual Relations regulates the issues of compensation of substantial and non-substantial damage.

140. Regarding the victims of criminal offence of human trafficking, they may exercise free legal aid that automatically entails a release from payment of court proceeding costs.

141. In all courts competent for cases of human trafficking there are Services for Support to Injured Parties/Witnesses. A special Informative Brochure is created for the injured parties/witnesses.⁸

⁸ An Informative Brochure is available on court portal: www.sudovi.me. The purpose is to provide to injured parties/witnesses all necessary information on criminal procedure, testimony, protection measures with the aim to full support, and contact data on court employees in charge for support provision. Innovated and amended Brochure for victims/witnesses is expected to be printed.

142. In compliance with legal regulations, particular attention and protection are dedicated if children appear before the court in the role of a witness/victim.

Reply to paragraph 9 (c)

143. With the aim of improvement of identification system, a list of indicators is created for early detection of victims/potential victims of human/child trafficking, which is printed in a form of a card and distributed to all people who may come in direct contact with those victims during their work.

144. Necessary list of indicators is created for the providers of medical support and employees in education.

145. PA continuously implements the so-called “Trafficking” action operatively directed towards sexual exploitation, begging and conclusion of illegal marriage. Security Centres perform intensified identification of interesting buildings, locations, persons, potential victims, and via cooperation with NCB Interpol Podgorica, perform further controls towards the countries of origin of potential victims, and other interesting persons. The action involves cooperation with institutions – labour inspection, joint action on the spot and controls in all areas where labour force is engaged, and illegal migrations in cooperation with the Border Police Sector.

146. Labour Inspection supervises the application of the Labour Law and Law on Foreigners, which regulate the movement and employment of foreigners in Montenegro, and intensifies its activities during summer season, when the inflow of labour force from neighbouring countries is dominant, especially on Montenegrin coast.

147. Taking into account particular vulnerability of children with regards to human trafficking, Ministry of Interior/National Office for FHT in cooperation with UNICEF in Montenegro, in August 2017, implemented the project “Development of standard operating procedures for acting with children separated from parents or without accompaniment, with particular emphasis on proactive identification of potential victims and human trafficking victims”. They organised 19 workshops (15 November–20 December 2017), to present the manner of application of standard operating procedures, which were attended by 122 representatives of border police and police of general responsibility, 32 from the centres for social work and 31 from healthcare services.

148. Guidelines for acting and processing of cases of early and forced marriages are developed and intended for police officers, representatives of healthcare, education, centres for social work and judiciary.

149. The list of focal points is created and distributed, and they are obliged to be at the disposal of this team 24 hours a day in case when it is necessary to ensure support and protection to human trafficking victim.

150. MHMR, National Office for FHT, local self-governments, centres for social work, Red Cross, Roma Council and NGO “Centre for Roma initiative” organized educational activities and campaigns in RE settlements in the towns inhabited by significant number of this population.⁹

151. Educational activities and campaigns target both public and victims of criminal offence of human trafficking – form: negotiated marriage. There were cases when during the visits the representatives of the institutions to the settlement, found out about ongoing marriage negotiations for somebody, and it resulted in termination of this process.

⁹ Aimed at the prevention and combat of child negotiated marriages among RE population, as one of the forms of criminal offence of human trafficking. Participants of educative activities and inhabitants of settlements were informed about legislative and institutional framework, harmful consequences and manner in which potential victims may be protected, and informative flyers were distributed in Montenegrin, Albanian and Roma language with contact numbers of all services competent for action in cases of the existence of suspicion about negotiations for marriage or such marriage is already concluded, and free phone number to report on the existence such negative social phenomenon or suspicions that it might happen.

152. Professional associates of the centres for social work exercise prevention activities via advisory conversations, especially with families at risk, in terms of recognition, guidance, psychological and substantial support and raising awareness on human trafficking and illegal juvenile marriages, especially RE population.

Reply to paragraph 9 (d)

153. Each year, Human Resource Administration implements the following training programmes:

- “Role and possibilities of action of the MFA and Diplomatic and Consular Representations in FHT one half-year training is organized;
- “Raising awareness on human trafficking phenomenon on the local level”, for representatives of local parliaments local self-governments. Three regional trainings are held each year;
- “Role of healthcare workers in fight against human trafficking”. Three one-day trainings for north, central and south region;
- “Strengthening the skills of early identification and addressing potential cases of human trafficking in Montenegro with special emphasis on multi-agency cooperation”. Two one-day trainings during a year;
- “Role of centres for social work and inspection services in fight against human trafficking”. Three two-day trainings are organized for north, central and south region.

154. Police Academy organizes training for its staff related to this matter.

155. Within the Bureau for Educational Services there is an accredited programme for continuous teacher training on “Best methods of transfer of knowledge on HT. Human trafficking is studied within the subject Civic Education in elementary and secondary schools.

156. Within the Bureau for Child and Social Protection, an institution in charge for training of professional workers in the centres for social work, there is an accredited programme related to fight against negotiated marriages, forced begging and forced child marriages. There is a continuous training of professional workers within this programme.

157. Centre for Training in Judiciary and State Prosecution continuously implement activities of training of judges and prosecutors in this area.

Reply to paragraph 9 (e)

158. With the aim of intensifying bilateral cooperation with the countries from the region in prevention, identification of human trafficking victims and criminal prosecution of trafficking criminals, National Office for FHT initiated signing of Protocol on Cooperation in this area with the countries from the region, i.e. those countries whose citizens in most number of cases appear as (potential) victims or offenders of criminal offence human trafficking on the territory of Montenegro.

159. The Protocol with Kosovo was signed in April, and the Protocol with Albania was signed in December 2014.

160. With the aim of efficient application of the mentioned agreements, National Coordinator for FHT jointly with National Coordinators from Albania and Kosovo, in December 2016, in Tirana, signed the Declaration on the Application of Standard Operating Procedure in view of identification, addressing, voluntary return and protection of human trafficking victims. Creation of bilateral protocol with Macedonia is in final phase.

Reply to paragraph 10 of list of issues prior to reporting

Reply to paragraph 10 (a)

161. Law on International and Temporary Protection of Foreigners has been implemented since 1 January 2018. Ministry of Interior makes decisions on justifiability of requests by which it:

- (i) Approves asylum if a foreigner who asks for international protection fulfils the conditions for the approval of asylum pursuant to this law;
- (ii) Approves subsidiary support if a foreigner who asks for international protection fulfils the conditions for the approval of subsidiary support pursuant to this law;
- (iii) Rejects request for international protection if a foreigner who asks for international protection does not fulfil the conditions for the approval of asylum or subsidiary support pursuant to this law;
- (iv) Rejects request for international protection if conditions for exclusion are fulfilled;
- (v) Approves or rejects request for international protection in accelerated procedure in specific cases.
- (vi) Requests for international protection with regards to which, based on available evidence, it is possible to make a decision approving international protection, may be solved on priority basis.

162. A charge may be filed to the Administrative Court against the decision rejecting the request within 15 days from the day of delivering the decision.

Reply to paragraph 10 (b)

163. A foreigner who requests international protection and who, taking into account personal capacities and circumstances (age, sex, gender determination, gender identity, severe diseases, mental health or consequences of torture, rape or other severe forms of psychic or physical violence or gender based violence), is not completely capable of exercising rights and completing obligations in compliance with this law, without adequate support, is ensured special procedural guarantees. Special procedural guarantees are considered as appropriate support to foreigners for the sake of exercising rights and completing obligations in compliance with this law. Capacities and circumstances, in the procedure from expressed intention to submit a request for international protection to decision making upon this request, are determined by trained police officers and authorized officials of the Ministry and other competent authorities.

Reply to paragraph 10 (c)

164. Acting upon the request for international protection, the Ministry, in each specific case, determines whether it is a secure third country and a relation between such country and a foreigner seeking international protection based on which it may be reasonably expected that s/he will request international protection in such country, taking into account all facts and circumstances of their request for international protection. A foreigner seeking international protection will be timely informed in their case there is a secure third country and may present the reasons that such country may not be considered as secure third country, taking into account the specificities of their personal capacities and circumstances.

165. In case when upon the request for international protection, it is determined that there is a secure third country, the request will be rejected, and a certificate with explanation that justifiability of the request for international protection was not considered will be issued to a foreigner.

166. In case the third party refuses to admit a foreigner whose request was rejected, their request for international protection will be considered again in compliance with this law. A foreigner who shows intention to submit request for international protection at the border

crossing will be ensured food, clothes, health protection and legal advice regarding the procedure upon the request for international protection.

167. Statement of a foreigner seeking international protection will be regarded as reliable in the part in which certain fact or circumstance is not supported by evidence, if:

- (i) The reliability of their statement is identified in terms of general and specific information on the country of origin and place from which they allegedly come;
- (ii) A serious effort was made to support with evidence their request for international protection;
- (iii) S/he submitted available evidence, while concerning the non-available ones, s/he provided satisfactory explanation;
- (iv) It is determined that their statement is consistent and assuring and is not in contrary with available general and specific information relevant for deciding upon the request for international protection; and
- (v) S/he asked for international protection in shortest possible term, or presented;
- (vi) Justified reasons why s/he did not ask for international protection in shortest possible term.

Reply to paragraph 11 of list of issues prior to reporting

Reply to paragraph 11 a), (b)

168. In 2014,¹⁰ 2312 applications for obtaining asylum in Montenegro were submitted to the Asylum Directorate. In 2014, two additional protections were granted and 2 statuses of refugee acknowledged. The highest number of applications were submitted by persons from (as per their statement): Syria (1649), Eritrea (316) and Sudan (60).

169. In 2015,¹¹ 1611 applications for obtaining asylum in Montenegro were submitted and 14 statuses of refugee were acknowledged and two additional protections were granted. The highest number of applications (as per their statement): Syria (966), Eritrea (166) and Somalia (156).

170. In 2016,¹² 335 applications for obtaining asylum in Montenegro and 12 statuses of refugee were acknowledged and 11 additional protections were granted. The highest number of applications (as per their statement): Morocco (60), Afghanistan (52) and Syria (35).

171. In 2017,¹³ 849 applications for obtaining asylum in Montenegro were submitted 7 additional protections were granted and a status of refugee was acknowledged to one person. The highest number of applications (as per their statement): Algeria (393), Morocco (88) and Syria (70).

172. All submitted applications were processed in accordance with, then valid, Law on Asylum and Law on General Administrative Procedure, i.e. Law on Administrative Procedure.

173. In all the cases in which the protection in Montenegro was granted, either through acknowledging the status of a refugee or approving additional protection, “Non-

¹⁰ Out of the total number of the applications, 2111 were submitted by persons of male gender and 201 by persons of female gender. There were 2.220 adults, 89 minors with adult companion, and 3 minors without adult companion.

¹¹ Out of the total number, 1366 were submitted by persons of male gender and 245 by persons of female gender. There were 1505 adults, and 106 minors with adult companion.

¹² Out of the total number, 284 were submitted by persons of male gender and 51 by persons of female gender. There were 290 adults, 39 minors with adult companion, and 6 minors without adult companion.

¹³ Out of the total number, 779 were submitted by persons of male gender and 70 by persons of female gender. There were 798 adults, 50 minors with adult companion, and 1 minor without adult companion.

refoulement” principle – the ban of banishment was applied, as the basic standard in approving international protection in line with the UN CRSR from 1951.

174. As regards the area of international protection, the Law on International and Temporary Protection of Foreigners, whose implementation started as of 01/01/2018 is relevant.

Reply to paragraph 11 (c)

175. The year of 2014 – the total of 184 persons/Readmission – 28 The year of 2015 – the total of 350 persons/Readmission – 50 The year of 2016 – the total of 635 persons/Readmission – 74 The year of 2017 – the total of 735 persons/Readmission – 52 Kosovo, Serbia, Albania, Croatia, Macedonia, France, Russia, Bosnia and Herzegovina, China, Bulgaria, Pakistan, Ukraine, Brazil, Philippines, Latvia, Syria, Greece, Great Britain, Kazakhstan, Antigua and Barbuda, Bangladesh, Palestine, Lebanon, Morocco, Algeria, Afghanistan, Czech Republic, Sweden, the Netherlands, Slovenia, USA.

Reply to paragraph 11 (d)

176. The procedure for approving international protection doesn't prevent extradition, i.e. delivery of a foreigner, for whom an international warrant was issued and who seeks international protection, to a third country, unless the decision on extradition, i.e. delivery, violates non-refoulement principle.

177. The procedure for approving international protection prevents extradition, i.e. delivery of a foreigner, who seeks international protection, for whom an international warrant was issued and in relation to whom the decision on extradition, i.e. delivery to the country of origin, was passed, until the moment when the decision upon the request for international protection becomes final and enforceable. A foreigner who seeks international protection and who is in the process of extradition, i.e. delivery, may submit an application for international protection, within five days of the expressed intention for submitting the application for international protection, and the Ministry of Interior shall notify the Ministry of Justice thereof.

Reply to paragraph 12 of list of issues prior to reporting

178. In the period 07/11/2009 (the date of entering into force of the Law on changes and amendments to the Law on Foreigners), 01/04/2018, DP and IDPs filed the total of 14946 applications¹⁴ for the approval of the permanent residence and temporary residence up to three years.

179. In Montenegro, the right to the universal registration of the birth record is for all children without exception and, therefore, for the children of RAE refugees, DP and IDPs, as well as for the children abandoned by their mothers, born in a medical institution and outside of a medical institution. In line with the provisions of the Law on Registers, a medical institution will be obliged to report the birth of a child in the maternity ward or in other medical institution, without exception.

180. Subsequent registration of the birth of a child, born outside of a medical institution, will be performed if the period of 30 days as of the birth of the child passes, during which the child was not entered in the Birth Register, after the conducted administrative procedure of establishing the birth related facts. If it is established, within the conducted administrative procedure, that there are no grounds for the registration, a decision will be passed on rejecting the application for registration.

181. Extra-litigious procedure is initiated upon the proposal of a person who is not entered in the Birth register, or every person/entity who has immediate legal interest, i.e. of

¹⁴ Out of this number, 14.539 applications were resolved, while the procedure is ongoing for 407. Out of 14.539 resolved cases, the application was accepted and permanent residence approved for 12.145 persons, 248 applications were refused, while 2.146 cases were rejected/terminated (since these were duplicated or incomplete applications).

a custody authority. The competent court submits the final and enforceable decision about the time and place of birth to the Ministry of Interior – the competent Regional unit or branch for civil statuses and personal documents, within 8 days as of the date of its finality and enforceability, for the purpose of the registration of the fact of birth in the Birth Register.

182. Ministry of Interior, in cooperation with the Association of Parents, realized the project “Drafting and distribution of brochure-registration of newborn in 4 steps”, supported by UNHCR that provided resources for the translation of the brochure into Albanian and Roma language, and for printing.

183. With the aim of establishing cooperation for resolving status of IDPs from Kosovo, who reside or who are born in Montenegro, related to subsequent entering in the Main Registers (Birth Register, Marriage Register and Death Register) and in the Register of the Citizens of the Republic of Kosovo, an Agreement was signed in 2013 between two Governments. It is related to registration of the IDPs from Kosovo (who reside in Montenegro) in the Main Registers and in the Register of the Citizens of the Republic of Kosovo.

184. Mobile biometric teams of the Ministries of Interior of Kosovo and Montenegro, with the support by UNHCR, OSCE and NGO “Legal Center”, conducted interviews and verifications, and received applications for issuing personal documents of the Republic of Kosovo (identity cards and passports).

185. During this survey, around 200 children born in Montenegro were identified, who in line with their parents’ origin should be entered in the Birth and the Register of the Citizens of the Republic of Kosovo, in order to obtain their documents. With purpose of resolving the status in Montenegro, the Ministry of Interior submitted to the competent authorities of Kosovo 131 birth certificates on the international forms for the mentioned children, as the evidence of the Kosovo citizenship for their parents, with the aim of entering in the Birth Registers and the Register of the Citizens of the Republic of Kosovo. In these activities, NGO “Legal Center” acted proactively and continuously, by raising awareness of these persons, brochures distribution, visits to the places where this population is located, individual visits and assistance in the collection of documents and in the process of submitting applications to the Ministry of Interior or launching extra-litigious proceedings.

186. Parliament of Montenegro adopted a new Law on Foreigners,¹⁵ which regulates status establishing and issuing of travel documents for a stateless person, and the issuance and extension of the temporary residence permit for the stateless person. A stateless person may reside in Montenegro based on the travel document for the stateless person or temporary residence permit. A person who was issued a temporary residence permit may use it to work in Montenegro, i.e. to have a free access to the labour market and it may be extended.

Reply to paragraph 13 of list of issues prior to reporting

187. Montenegro did not reject any request for extradition of an individual suspected of having committed the criminal offence torture.

Reply to paragraph 14 of list of issues prior to reporting

188. Center for Training in Judiciary and State Prosecution conducted the trainings of judges and state prosecutors:

2016–2018

- “Reaching the highest quality evidence through the interrogation of witnesses and suspects”, 22 participants attend;

¹⁵ Has been implemented as of 4 March 2018.

- “Investigative interviews (hearings/interrogations)”, 9 participants attend;
- “Prevention of torture”, the Module was attended by 8 participants;
- “Fight against abuse and impunity and enhancing the application of the case law of the ECHR on the national level/FILL”, about the Article 3 of the European Convention on Human Rights. 113 participants attend;
- “Prohibition of torture and inhuman and degrading treatment and punishment”, 59 participants attend.

189. Employees of the Ministry of Interior, Protector of Human Rights and Freedoms, IECS and Police Directorate attended trainings:

2014–2018

- “Performing of security tasks”, 116 participants;
- “Prevention and investigations of torture in the holding facilities”, 59 participants;
- “Acting toward persons detained in the police institutions”, 30 participants;
- “Legal aspects and tactics of dealing of police officers in performing police tasks and application of police authorizations”, 38 participants;
- “Instructions on the medical protection of detainees and convicts in IECS, with the accompanying Protocols”, 20 participants;
- “Prevention of abuse by the police and prison officers, with the focus on medical examination upon admission, keeping records and reporting abuse”, 70 participants;
- “International standards of acting of security officers in the cases of torture in prisons”, 60 participants;
- “Early detection and fight against violence among inmates”. 10 trainers – employees of IECS;
- “Use of coercive measures and keeping records on them”, 10 trainers – employees of IECS;
- “Acting in extraordinary situations”, 15 employees of IECS;
- “Human rights, implementation of the European Convention of Human Rights in prison environment, with the focus on the best practices; CPT/SPT standards; case law of the ECHR”, 137 participants.

Reply to paragraph 15 of list of issues prior to reporting

190. At the end of trainings, evaluation forms are filled out, and attendees are questioned about their assessment of a discussed subject, needs for additional trainings, contribution of the training to their work, but special methodologies of trainings’ impact were not developed.

Reply to paragraph 16 of list of issues prior to reporting

Reply to paragraph 16 (a)

191. In 2014,¹⁶ IECS had accommodation capacities for 1.350 persons deprived of liberty. The number of the detained persons in IECS amounted to 309, which makes 27% in relation to the total number of persons deprived of liberty in IECS – 1123. The average duration of the detention in investigation is 4 months and 22 days.

¹⁶ Penal and Correctional Facility 650, Remand prison Podgorica 365, Prison for short sentences 175 and Prison Bijelo Polje 160.

192. In 2015,¹⁷ IECS had accommodation capacities for 1.350 persons deprived of liberty. The number of the detained persons in the IECS amounted to 298, which makes 26% in relation to the total number of persons deprived of liberty in IECS – 1131. The average duration of the detention in investigation is 5 months and 7 days.

193. In 2016,¹⁸ IECS had accommodation capacities for 1.310 persons deprived of liberty. The number of the detained in IECS amounted to 311, which makes 27.70% in relation to the total number of persons deprived of liberty in IECS – 1123. The average duration of the detention in investigation is 4 months and 24 days.

194. In 2017,¹⁹ IECS had accommodation capacities for 1.325 persons deprived of liberty. The number of the detained in IECS amounted to 309, which makes 27.60% in relation to the total number of persons deprived of liberty in IECS – 1119. The average duration of the detention in investigation is 4 months and 10 days.

Reply to paragraph 16 (b)

195. In accordance with the CC and the Law on Execution of Suspended Sentence and Community Service Sentence, the following alternative sentences to the prison sentence were stipulated in the Montenegrin legal system, as the implementation of the Law on Execution of Suspended Sentence and Community Service Sentence started in July 2014, and that decision-making on the conditional release is within the competence of the courts as of June 2016, statistical overview as per the type of a sanction and year follows:

House arrest – (191 in total)

- 2014 – 5 cases;
- 2015 – 4;
- 2016 – 57;
- 2017 – 101;
- 2018 – 24;

Community service sentence – (854 in total)

- 2013 – 26 cases;
- 2014 – 64;
- 2015 – 159;
- 2016 – 192;
- 2017 – 298;
- 2018 – 115;

Suspended sentence

- 2014 – data unavailable;
- 2015 – 1 013 cases;
- 2016 – 1 631;
- 2017 – 1 524;
- 2018 – 453;

¹⁷ Penal and Correctional Facility 650; Remand prison 365; Prison for short sentences 175; Prison Bijelo Polje 160.

¹⁸ Penal and Correctional Facility 650, Remand prison Podgorica 365, Prison for short sentences 175 and Prison Bijelo Polje 120.

¹⁹ Penal and Correctional Facility 751, Remand prison Podgorica 284, Prison for short sentences 175 and Prison Bijelo Polje 115.

Conditional release – (601 in total)

- 2014 – data unavailable;
- 2015 – data unavailable;
- 2016 – 244 cases;
- 2017 – 288;
- 2018 – 69.

196. With the aim of enhancing non-detention measures the Center for Training organized several trainings.²⁰

197. State prosecutors propose determining detention only in case when the presence of the accused in the criminal proceedings cannot be ensured by using other measures. This measure is used as the last resort for securing the presence of the accused.

Reply to paragraph 16 (c)

198. Strategy for the Execution of Criminal Sanctions (2017–2021) with the accompanying Action Plan stipulate the following:

- Construction of a Prison in Bijelo Polje;
- Construction of a Special health care of the Institution for the execution of security measures of compulsory psychiatric treatment and confinement in a health care institution, as well as compulsory treatment of drug addicts and alcoholics;
- Construction of a new Reception desk;
- Construction of a Multifunctional facility for religious, sports, cultural and working activities of prisoners and employees of IECS.

Reply to paragraph 16 (d)

199. Material conditions in the police holding facilities were improved as lighting, hygiene maintenance, adaptation of the holding facilities, installing video surveillance devices. The Plan of activities was prepared for the fulfilment of the recommendations of the CPT. Taking into account that the holding facilities in all centers (8) and security departments (13) do not satisfy complete conditions, a procedure was launched, for designing new premises for holding persons in the centers where there is not a possibility of adaptation up to the level of the observance of the stipulated standards. Professionals for the preparation of the design documentation were engaged.

200. With the aim of improving conditions for the stay of detainees in the IECS, from 2014 until today, the reconstruction and adaptation of all the premises planned for the accommodation was performed and the maintenance and improvement of the conditions in the facilities have been carried out.

201. In accordance with the Article 31 of the Rulebook on Detailed Manner of Executing Detention, detainees are enabled to stay in the open space in the part of the prison intended for walking on a daily basis. Also, detainees have access to weight-lifting room and room bicycles in their premises.

²⁰

- “European Convention on Human Rights and Criminal Procedure”. One of the topics of seminar was the right to freedom and security of person, as per the Article 5 of the European Convention on Human Rights/Conditions for fixing and extending detention in the practice of the ECHR
- “Detention – according to the “European Convention for the Protection of Human Rights and Fundamental Freedoms and the relevant Montenegrin legislation and practice” and “Report on the implementation of the European Convention for the Protection of Human Rights and Fundamental Freedoms in the practice of the Supreme Court of Montenegro”, organized by the Supreme Court and AIRE Center from London.
- “Juvenile legislation”.

202. In the Remand prison, depending on the needs, detainees are tasked with the maintenance of hygiene in the Prison, on walking circles, performance of the works, in the kitchen, etc.

203. NPM conducts regular visits to the holding facilities in the security centers and detention premises in the IECS and gives recommendations for the improvement of the conditions in the premises and treatment of persons deprived of liberty.²¹

Reply to paragraph 16 (e)

204. Health protection to persons deprived of liberty in the scope of the Health Protection Sector is provided in the ambulances in OU²² Spuž and in OU Bijelo Polje, at the primary level. The provision of the health care at the secondary level is performed by means of reference outside of IECS to examinations in the Clinical Center of Montenegro and other medical institutions.

205. The manner of providing health protection to detainees and convicts is stipulated by the Instructions on the Health Care of Detainees and Convicts in IECS. These Instructions stipulate the manner of registering examinations and appropriate supporting forms of records and protocols. Also, an obligation is stipulated for prison physicians to report on traumatic injuries of a new coming inmate on a form prescribed by the Protocol on Inmates' Injuries with the "body scheme" where traumatic injuries are marked, and which is the integral part of the Instructions. The integral part of the new Instructions of IECS is the Register of Psychoactive Drugs Addicts, which stipulates the manner of their registration, and keeping records of the quantity of issued medicines for substitution therapy.

206. As regards the mental health of detainees and inmates, as of May 2016, a specialist doctor psychiatrist narcologist and psychiatrist provide health care to persons who are addicts and suffering mental illnesses, and the treatment consists of individual and group work, with practicing therapy, if necessary.

207. NPM composed the Report on the realization of the rights of mentally ill persons deprived of liberty, who are placed in IECS, in 2017. The Report provides recommendations for enhancing the mental health of detainees and inmates.²³

Reply to paragraph 16 (f)

208. In 2014, there were 469 employees in IECS. Out of the total number 251 employees had permanent placements, while 218 were under fixed-term contracts in duration of 24 months.²⁴

209. In 2015, there were 454 employees in IECS. During 2015, the labour-legal status for indefinite time period was resolved for the total number of 190 employees in IECS. Out of the total number, 443 employees had permanent placements, while 11 were under fixed-term contracts in duration of 24 months.²⁵

210. In 2016, there were 489 employees in IECS and all of them had permanent placements.²⁶

211. In 2017, there were 490 employees in IECS, out of which 489 had permanent placements and 1 was under fixed-term contract.²⁷

²¹ Published on http://www.ombudsman.co.me/NPM_Izvjestaji.html.

²² OU – Organization unit.

²³ Published on <http://www.ombudsman.co.me/img-publications/23/final-izvjestaj-mentalno-oboljeli-22.1.2018.pdf>.

²⁴ In the Security sector, the number amounted to 351, Treatment sector, Labour sector – 42, Health service – 19, Center for human resources education – 2, 23 in administration.

²⁵ In the Security sector, the number amounted to 327, Treatment sector – 37, Labour sector – 47, Health service – 16, Center for human resources education – 2, 25 in administration.

²⁶ The 368 employees, Treatment sector – 38, Labour sector – 41s, Health service – 18s, Center for human resources education – 2, 22 in administration.

²⁷ The Security 361 employees, Treatment sector – 42, Labour sector – 48, Health service – 18, Center for human resources education – 2, 19 employees administration.

212. Currently, there are 496 employees in IECS, out of which 495 have permanent placements and 1 is under fixed-term contract. In relation to the advertisements announced at the end of the year of 2017 and in March 2018, the conclusion of full-time employment contracts is expected soon with 29 officers in the Security service.²⁸

Reply to paragraph 16 (g)

213. Violence among inmates, including sexual abuse, represent a grave disciplinary offence for which the most severe disciplinary measure is imposed – referral to solitary confinement up to 14 days at most. Other measures for grave disciplinary offence include denial of benefits and denial of possibility for extraordinary or special type of visit.

214. In the period from 2014, in the Penal and Correctional Facility, due to the recorded cases of violence among inmates, 229 disciplinary complaints were filed.²⁹

215. In the Prison in Bijelo Polje, due to the recorded cases of violence among inmates and detainees, 56 disciplinary complaints were filed, out of which 29 disciplinary against inmates and 27 of them against detainees.³⁰

216. In the Prison for short sentences, due to the recorded cases of violence among inmates, 56 disciplinary complaints were filed.³¹

217. In the Remand prison Podgorica, due to the recorded cases of violence among detainees, 122 disciplinary complaints were filed.³²

218. With the aim of preventing violence in IECS, the Strategy on the Prevention of Abuse and Violence among Inmates was adopted on 05/09/2012.

219. In April 2015, the Manual on Acting in Incidental and Extraordinary Situations was adopted, and all security officers who are in direct contact with inmates, passed the training for the implementation of this Manual.

Reply to paragraph 16 (h)

220. Plan of vocational training and working treatment of convicts in prison is established at the beginning of the prison sentence serving, after the examination of a personality. This Plan include vocational trainings, education and working engagement.

221. All inmates in the Semi-open department of the Penal and Correctional Facility have working engagements, except in individual cases due to age or illness. Rulebook on the work outside of IECS was passed and signing of contracts with companies is ongoing, so certain number of inmates would be employed in the community.

222. In the Female department in IECS almost all women have working engagements on hygiene maintenance jobs in the laundry, in tailor's workshop and library, all minors have working engagements on the hygiene maintenance jobs in the living premises, while 1 minor is engaged on internal construction operations. Both adult inmates and minors receive monetary compensations for the mentioned engagements.

223. Inmates that do not have their own financial resources and working engagements receive personal hygiene kit by IECS.

224. In 2017, a pilot project for vocational training of inmates for professions attractive at the labour market was conducted and the main stakeholders were the Center for Adult Education, Employment Agency, NGOs "Young Roma" and IECS. Six inmates of the

²⁸ The Security sector 365 employees, Treatment sector – 43, Labour sector – 47, Health service – 18, Center for human resources education – 2, 19 employees administration.

²⁹ Per years as follows: in 2014 – 49, in 2015 – 48, in 2016 – 50, in 2017 – 49 and in 2018 – 33.

³⁰ Per years, inmates: – in 2014 – 6, in 2015 – 5, in 2016 – 7 and in 2017 – 9. Per years, detainees: – in 2014 – 11, in 2015 – 2, in 2016 – 11, in 2017 – 3 and in 2018 – 2.

³¹ Per years: in 2014 – 19, in 2015 – 9, in 2016 – 11, in 2017 – 13, and in 2018 – 4, and in all these cases – the disciplinary measure referral to solitary confinement was imposed.

³² Per years: in 2014 – 33, in 2015 – 20, in 2016 – 35, in 2017 – 28, and in 2018 – 6, and in all these cases – the disciplinary measure referral to solitary confinement was imposed.

Penal and Correctional Facility and Prison for short sentences passed through the training, for assistant cook and for auto-mechanic. As regards the education of adult inmates, currently one inmate attends undergraduate studies and two attend post-graduate – master studies.

225. During 2015, NGO “Women’s Rights Center” realized the project “Workshops for enhancing the process of resocialization of women serving prison sentence in IECS”. The persons of various levels of creativity could participate in workshops: included activities as painting and drawing, imaging using patterns and decoupage technique, depending on individual interest and preferences. The Workshops were attended by 18 female participants. Association of Old Craftsmanships and Skills “Nit” from Podgorice, realized successfully the project “Workshops of old craftsmanships in IECS. Five workshops are realized the workshop of knitting, manual needlework and weaving; wood imaging; decoupage workshop; making of toys and packing of products. 52 beneficiaries participated in these workshops, and certain inmates attended several workshops. All created things remained in the possession of those inmates who made them.

226. As regards juveniles, regular schooling is provided for minors who did not complete elementary school. When it comes to the programme of treatment, the following activities are conducted:

- Training on social skills and abilities, aggression control and individual and group therapies;
- Advisory conversations;
- Sports activities;
- Creative organization of free time (preparation of certain dishes and cakes, reading, drawing, creative writing, origami and decoupage technique).

Reply to paragraph 17 of list of issues prior to reporting

227. Data about the number of cases and results of procedures initiated due to the criminal offences perpetrated by the prison officers, to the detriment of inmates or detainees, were provided in the scope of the question 3 of this questionnaire.

228. In the reporting period from 01/01/2014 until April 2018, the total of 23 cases were formed and these criminal offences were perpetrated by other detainees or prisoners.

In 2014

229. 3 cases were formed against 4 (inmates):

- In 2 cases, a criminal procedure was initiated by filing an indictment, in both cases due to the criminal offence serious bodily injury referred to Article 151 of the CC of Montenegro and convicting verdicts were declared;
- In one case, the prosecutor found there were no grounds for initiating criminal proceedings.

In 2015

230. 2 cases were formed against 2 (inmates):

- In 2 cases, a criminal procedure was initiated by filing an indictment, in both cases due to the criminal offence serious bodily injury referred to Article 151 of the CC and convicting verdicts were declared.

In 2016

231. 9 cases were formed against 9(inmates):

- In 7 cases, a criminal procedure was initiated by filing an indictment (due to the criminal offence minor bodily injury as referred to Article 152, para. 2 in relation

with para. 1 of the CC or due to the criminal offence serious bodily injury as referred to Article 151 of the CC). Convicting verdicts were declared in 6 cases, while in 1 case the main hearing is ongoing;

- In 2 cases, preliminary investigation is ongoing.

In 2017

232. 5 cases were formed:

- In 2 cases, a criminal procedure was initiated by filing an indictment, due to the criminal offence serious bodily injury as referred to Article 151 of the CC, out of which in one case a convicting verdict was declared, while in the other case the main hearing is ongoing;
- In 1 case, a criminal charge was rejected;
- In 2 cases, perpetrators remained unknown.

In 2018 (01/01/2018 until 23/03/2018)

233. 3 cases were formed:

- In 1 case, an indictment was filed due to the criminal offence minor bodily injury as referred to Article 152, para. 2 in relation with para. 1 of the CC;
- In 2 cases, the preliminary investigation is being conducted.

234. As regards the investigation of the cases of aggression in the prison in Podgorica in January 2015 between the prison officers and inmates, we are informing you about the following. In January 2015, a conflict between the prison officers and inmates took place in IECS. The cases were formed in the Basic State Prosecution Office in Podgorica in order to establish whether the officers perpetrated the criminal offence prosecuted ex officio.

Reply to paragraph 17 (a)

235. In one case, the officer of IECS in the capacity of the escorting officer, while conducting the escort of the inmate L.L., hit the inmate's chest with his leg and caused him a serious bodily injury. After the completed evidentiary actions, the State Prosecution office filed an indictment against the prison officer due to the criminal offence serious bodily injury as referred to Article 151, para. 1 of the CC. The accused person received a final verdict – prison term of five months.

Reply to paragraph 17 (b)

236. Several convicts attacked prison officers. During the preliminary investigation of the event, the State Prosecution office heard the inmates who allegedly had participated in this event. They complained about having injuries, which were identified by the prosecutor, as the inmates showed the mentioned injuries to the prosecutor. They stated those injuries had been inflicted on them by the officers of IECS, after the event during which the prison officers claimed that they had been attacked. The prosecutor immediately ordered the performance of bodily examination of the inmates and medical expertise, which was conducted by a court expert witness in the area of medicine. The prosecutor formed the case in which he conducted evidentiary actions for the purpose of the identification of officers who had inflicted injuries to the inmates. After the completed evidentiary actions, the prosecutor found that 10 prison officers perpetrated the criminal offence torture referred to Article 167, para. 2, in relation with para. 1 of the CC and criminal offence serious bodily injury referred to Article 151, para. 1 of the CC and, hence, the prosecutor filed an indictment against them on 07/12/2015. The main hearing in this case is ongoing.

237. Taking into account that more officers of the IECS participated in this event without doubt, the prosecutor proceeded with conducting evidentiary actions and, thus, he:

Reply to paragraph 17 (c)

238. On 08/06/2017, identified two more persons, the officers of IECS, L.Č. and D.B., and formed a separate case against them due to the criminal offence torture referred to Article 167, para. 2, in relation to para. 1 of the CC. On 29/06/2017, the Prosecution office raised the indictment against these two suspects, due to the criminal offence torture referred to Article 167, para. 2, in relation to para. 1, in relation to Article 23, para. 2 of the CC A convicting verdict was passed in this case.

239. The number of fatalities among detainees in IECS in the mentioned period amounted to the total of 5s: in 2014 – 2 persons died, in 2015 – 2 persons died, in 2016 – there were no fatalities, while in 2017 – 1 detainee died. The causes of death of the detainees:

- In 2014 was illness and both of them died in the Clinical Center;
- In 2015, in one case it was the death by natural causes (heart attack-infarction), while in the second case of IECS it was drugs overdose;
- In 2017 was illness. IECS informs the members of the immediate family of an inmate, court and State Prosecution office about the death of the inmate without delay.

240. In the Remand prison in Podgorica, due to the recorded cases of violence among detainees, 109 disciplinary complaints were filed and in all cases, a disciplinary measure referral to solitary confinement was imposed on the detainees.

Reply to paragraph 18 of list of issues prior to reporting

241. The examination of the inmates is conducted without the presence of a security officer, unless the prison physician assesses that the presence of the security officer is necessary.

242. In accordance with the Instructions on the Health Care of Detainees and Convicts in IECS, the Report of the physician after the medical examination contains: a record – description of his medical condition as per the statement of a patient and any allegations of abuse, a full overview of objective medical findings based on the detailed examination and the conclusion of the physician, related to the consistency of any allegations of abuse with the objective medical findings.

243. In accordance with Article 254 of the Criminal Procedure Code, the duty of filing charge for a criminal offence shall also be incumbent upon all natural and legal persons who are granted certain public powers pursuant to law, or are professionally involved in the protection and security provision to persons and property or in the health care of persons, and in jobs of minors care and education, if they learn about a criminal offence while performing or in connection with their profession.

Reply to paragraph 19 of list of issues prior to reporting

244. When it comes to the disciplinary measure – referral to solitary confinement, in accordance with the Article 108 of the Law on Execution of Prison Sentences, Fines and Security Measures, an inmate who committed a grave disciplinary offence may receive referral to solitary confinement up to 14 days at most, as the most severe disciplinary measure. Apart from the stated, other measures for grave disciplinary offence include denial of benefits and possibility for extraordinary or special type of visit.

245. In accordance with the Rulebook on Detailed Manner of Executing, the Head of prison or a person authorized by him may impose disciplinary sanctions implying limitation of visits or referral to special premises (solitary confinement) up to 15 days, for disciplinary offences of a detainee, in line with the Criminal Procedure Code. Within the reporting period, in the detention units of IECS (Remand prison Podgorica and Prison Bijelo Polje), 172 detainees were referred to the solitary confinement for the purpose of executing disciplinary measure due to the committed severe disciplinary offence. Maximum duration

of the solitary confinement is 15 days, and an average duration of the disciplinary measure referral to solitary confinement amounted to 8 days during the reporting period.

246. Protection mechanisms that are applied to inmates in disciplinary procedures: an inmate shall be entitled to file a complaint to the Ministry against a decision of the Head of IECS, regarding the disciplinary liability of the inmate, within three days as of the date of the decision's receipt, and the inmate may initiate administrative dispute against the decision of the Ministry. Also, persons considering that, during the disciplinary proceedings, some of their fundamental human rights was breached, shall be entitled to file a complaint to the Institution of the Protector of Human Rights and Freedoms of Montenegro. Disciplinary proceedings allow, an inmate to have an attorney-at-law as per his choice and at his own expense, who he will be obliged to engage within 24 hours as of the moment of the delivery of the disciplinary charge. Taking into account that in the disciplinary procedure the provisions of the Law regulating administrative procedure are applied, during the disciplinary procedure, the inmates shall have all the rights like the parties in the administrative procedure: the right to state opinion, to be acquainted with the results of the examination (interrogation) procedure, to state facts, to propose evidence, to require explanations, to use language and alphabet in the proceedings, to review the files and to be notified about the course of the proceedings, etc.

Reply to paragraph 20 of list of issues prior to reporting

247. Acceptance center, which is located in Spuž has the capacity to accommodate 65 persons. There is a constant work on strengthening capacities of officers through continuous training. Direct contact and conversation with foreigners asking for international protection in the Center are performed by persons who are experts for identification and work with jeopardized and vulnerable categories. The team which establishes communication (a psychologist, a social worker, a teacher, medical staff), performs an assessment and monitors all the relevant changes in behaviour during the stay of the foreigners who ask for the international protection in the Center. There are flyers and various written materials in the Center, available to all persons who are provided with the accommodation and acceptance, in the languages used in the communication of the majority of migrants, which contain information about the institutions they may address and challenges and difficulties they may face during the migrations, and the manner how to protect themselves.

Reply to paragraph 21 of list of issues prior to reporting

248. Due to the excessive use of force by the police during the protests held in October 2015, the total of 11 cases were formed in the Prosecution office:

- (i) 2 cases were formed and both of them against unknown perpetrators – police officers on 17/10/2015. The prosecutor formed one case at his own initiative, while the other case on the basis of the complaint by the injured party. The prosecutor undertook evidentiary actions in both cases, but given that the identity of police officers could not be established based on them, since they wore masks and uniforms that night, the prosecutor gave instructions to the police to work on the identification of the perpetrators – police officers in both cases;
- (ii) The prosecutor formed 3 cases at his own initiative against unknown perpetrators – police officers on 18/10/2015. Numerous evidentiary actions were undertaken in all 3 cases, but given that the identity of police officers who had committed criminal offences could not be established based on them, the prosecutor gave instructions to the police to work on the identification of the perpetrators – police officers in all three cases;
- (iii) On 24/10/2015, 4 cases were formed based on the complaints of the injured parties who stated that bodily injuries had been inflicted on them by police officers. Numerous evidentiary actions were undertaken in all cases, but given that the identity of police officers who had committed criminal offences could not be

established based on them, the prosecutor gave instructions to the police to work on the identification of the perpetrators – police officers in all cases;

(iv) A separate case was formed due to beating of Milorad Martinović on 24/10/2015. Police officers (the members of the Special Anti-Terrorist Unit) undertook activities aimed at establishing the previously disturbed public peace and order after the completed protests. On that occasion, without a motive, they stopped the vehicle owned by the injured party Milorad Martinović and used the coercive measures and force toward him illegally, by hitting him with the official police batons several times on the head and body, due to which strokes he received several injuries that are in aggregate qualified as a serious bodily injury. Also, they damaged his travel vehicle. Given that the perpetrators of the offence, police officers had official uniforms and equipment consisting of helmets and masks, their identity could not be established, due to which the Prosecution office formed the case against unknown perpetrators due to the criminal offence torture as referred to Article 167, para. 2, in relation with para. 1 of the CC, in conjunction with the criminal offence serious bodily injury as referred to Article 151, para. 1 of the CC and destroying and damaging property of another person, as referred to in Article 253, para. 2, in relation with para. 1 of the CC. After the conducted preliminary enquiries, two perpetrators of these criminal offences were identified and indictment was raised against them on 24/12/2015. The main hearing was completed and the accused persons were served with the prison term of 1 year and 5 months, each. Also, the identification of other perpetrators of these criminal offences is still ongoing;

(v) During the investigation of all cases including the excessive use of force during the protests held in October 2015, the Prosecution office found that the members of the Special Anti-Terrorist Unit didn't compose special reports about the use of force during the protests, which is one of the main reasons why the police officers who committed criminal offences using force could not be identified. Therefore, 1 case was formed against Lj.R., a commander of the Special Anti-Terrorist Unit, due to the criminal offence assistance to a perpetrator after the committed criminal offence as referred to Article 287, paragraph 2 of the CC. Certain evidentiary actions were conducted, after which the Prosecution office filed indictment to the Basic court in Podgorica. Acting upon the indictment of the Prosecution office, the court declared the accused Lj.R. guilty and sentenced him to a prison term of 5 months.

Reply to paragraph 22 of list of issues prior to reporting

Reply to paragraph 22 (a)

249. All persons deprived of liberty who consider that some of their fundamental human rights was denied in any way, may file a complaint to the Institution of the Protector of Human Rights and Freedoms, through the letter-boxes intended for the complaints of the mentioned persons that are installed in all prisons in IECS.

250. Persons deprived of liberty also address the Protector of Human Rights and Freedoms through usual manners of communication, letter-boxes, by means of individual and group complaints. Also the complaints are received by telephone, regular and e-mail, and the Management of IECS, in sealed envelopes. On behalf of persons deprived of liberty, the Protector is also addressed by relatives, NGOs and lawyers. In all these cases, before acting, the consent of a person on whose behalf a complaint was filed had been required through a direct contact.

251. As regards convicted persons, the Law on Execution of Prison Sentences, Fines and Security Measures defines the right of an inmate to file a complaint to the Head of IECS if he considers that some of his rights was breached while serving a prison sentence, as well as to NGOs dealing with human rights protection. The Constitution guarantees the right of each individual to, after having used all effective legal resources, file a complaint to the Constitutional court due to the breach of the rights ensured by the highest legal act. At the same time, as the member to the UN Conventions, Montenegro accepted the mechanisms of

individual complaints due to the breach of the rights guaranteed by the individual Conventions, before the competent Committees and in accordance with the stipulated procedure.

252. As regards detainees, the Criminal Procedure Code of Montenegro and the Rulebook on Detailed Manner of Executing Detention, stipulate that a detainee is entitled to file an oral or a written complaint to the Head of the prison, if he considers that his rights were violated and may require to be allowed to appellate report, and the person managing prison shall immediately and within 48 hours as of the completed appellate report at the latest, state his decision about the complaint to the detainee. If the Head of the prison does not state his decision regarding the complaint, the detainee may, also in the case when he considers there are other irregularities and breaches of rights, file a complaint to an investigative judge.

Reply to paragraph 22 (b)

253. During their admission to detention units of IECS, all detainees are acquainted with the Rulebook on Detailed Manner of Executing Detention, which stipulates the manner of executing detention, their rights and obligations. The Rulebook is translated into Albanian and English languages, for detainees who do not speak Montenegrin language.

254. In 2017, the Protector of Human Rights and Freedoms increased the activities to raise awareness of persons deprived of liberty about their rights and the manner to seek protection. This was performed through the increased presence of the representatives of the Institution among the persons deprived of liberty, numerous direct conversations, distribution of pamphlets, brochures and other promotional materials. The instructions were distributed as well, written in an understandable language, along with the forms for filing a complaint, which contain all the necessary information that may be given by a person deprived of liberty for the purpose of initiating the procedure for the protection of his rights. All these activities resulted that almost one half of the complaints were received after the conversations of the Institution's representatives with the persons deprived of liberty.

Reply to paragraph 23 of list of issues prior to reporting

Reply to paragraph 23 (a)

255. In litigations initiated by victims by means of petitions for the compensation of non-material and/or material damage, the courts act by applying the provisions of the Law on obligations and Law on Civil Procedure. Articles 207–212 of the Law on obligations regulate the compensation of non-material damage, while the compensation of material damage in case of death, bodily injury and damage to health is stipulated in the Articles 200–204 of the Law on obligations. The courts do not keep separate records of the data of the cases of compensation of damage to victims of torture and abuse, based on which the requested data could be submitted.

Reply to paragraph 23 (b)

256. Observing “right-to-know” standards of witnesses and victims, the Supreme Court of Montenegro issued the Information Bulletin for injured parties/witnesses, domestic violence victims and human trafficking victims. Document³³ provides answers to questions regarding the protection in the court proceedings and support provided by the Victim and witness support services. These services exist in all Misdemeanour, Basic and High courts in Montenegro. Information Bulletin contains the contact details of responsible persons that witnesses and victims may address for information and support during the proceedings when they act in the capacity of witnesses.

³³ The Information Bulletin was published and distributed to the courts, and it is placed on the web portal www.sudovi.me.

Reply to paragraph 23 (c), (d)

257. The victims of torture and abuse have access to free legal aid, if the conditions referred to Article 12 of the Law on Free Legal Aid have been fulfilled (see answer to the question 5).

Reply to paragraph 24 of list of issues prior to reporting**Reply to paragraph 23 (a)**

258. “Analysis of the risk of vulnerability of employees in public information media – journalists “was performed, and the Police Directorate, on the basis of the conducted assessment and analysis, performs the security measures for the personal safety of journalists and property of the media that they work for. Officers of the Police Directorate, undertake activities aimed at prevention, identification and arrestation of criminal offences and misdemeanours to the detriment of journalists and property of the media. Preventive measures and activities related to secure journalists, editorial board and property of the media – vehicles in cases where this is deemed as necessary, to operational checks and analyses of potential risks with the aim of providing conditions for unhindered work of journalists.

259. Officers of the Police Directorate daily communicate with the competent prosecutors – actions are undertaken in a coordinated and planned manner with the aim of collecting material evidence for possible processing of perpetrators of attacks on journalists and property of the media. As a constant activity, operational checks are performed continuously in the field, in relation to persons who can jeopardize the safety of journalists, situation analysis in printed and electronic media is performed, i.e. whether their current activity may result in the jeopardization of the safety of the employees in the mentioned media.

Reply to paragraph 23 (b)

260. In the end of December 2013, the Government of Montenegro passed the decision on the establishment of the Commission for monitoring acting of the competent authorities in the investigations of old and recent cases of threats and violence toward journalists and murder of journalists. The Commission established the list of priority investigations to deal with during its mandate. Task forces were established with the aim of shedding light on the particularly complex events and in which results have been demonstrated in the work so far. The Ministry of Interior provides logistical support to the Commission for monitoring acting of the competent authorities in the investigations of old and recent cases of threats and violence toward journalists and murder of journalists.

261. The representative of the Ministry of Interior provides technical support, while the member of the Commission is the Head of the Internal control department of the Police. At the session held on 8 February 2018, related to the Report on the work of the Commission for the period from 23 September 2017 until 23 January 2018, the Government realized the recommendations of the Commission:

- To publish Reports on the work of the Commission on the web page of the Ministry;
- To allocate the resources for monthly remunerations to the members of the Commission from the budget;
- The Ministry of Interior to reconsider acting of the police officers in the investigations of the attacks on journalists and property of the media.

Reply to paragraph 23 (c)

262. In the period from 01/01/2014 until 23/03/2018, the following criminal procedures were initiated.

263. In 2014 the case was formed against:

- One person due to the criminal offence compulsion and criminal offence threat to personal safety, which were committed to the detriment of the journalist Marko Milačić. After performed evidentiary actions, the accused was indicted. The Court passed convicting verdict and sentenced the accused to the prison term of 9 months;
- One person due to the criminal offence threat to personal safety, committed to the detriment of the journalist Darko Bulatović. After performed Evidentiary actions the accused was indicted. The Court passed convicting verdict and sentenced the accused to the prison term of 3 months;
- One person due to the criminal offence threat to personal safety, committed to the detriment of the journalist Siniša Luković. After performed Evidentiary actions the accused was indicted. The Court passed convicting verdict and imposed a conditional sentence on the accused.

264. In 2015 the case was formed against:

- An unknown perpetrator, due to the existence of a reasonable doubt that, by means of stoning the premises of “Pink M” television, s/he committed criminal offence causing general danger, referred to the Article 327 of the CC Evidentiary actions were performed and the instruction was given to the police to work on the identification of the perpetrators of this criminal offence;
- One person due to the criminal offence threat to personal safety, which was committed to the detriment of the Executive director of “Vijesti” television, Marijana Bojanić Kadić. Evidentiary actions were performed, after which the accused was indicted. The Court passed convicting verdict and imposed a conditional sentence on the accused.

265. In 2016: The case was formed against one person due to the criminal offence threat to personal safety, which was committed to the detriment of the journalist Obrad Pavlović. Evidentiary actions were performed, after which the accused was indicted. The Court adjudicated acquittal.

266. In 2017: There were no criminal proceedings initiated due to the criminal offences committed to the detriment of journalists.

267. In 2018 (ending with 23/03/2018): The case was formed against one person due to the criminal offence threat to personal safety, which was committed to the detriment of the journalist Jelena Jovanovid. Evidentiary actions were performed, after which the accused was indicted.

268. We are submitting information about the cases that you particularly requested:

(i) On 07/05/2015, Zorica Bulatović, a journalist/correspondent reported that the front and rear windshields were broken on her vehicle, brand “Renault Megane”, along with all the side glasses. Police officers performed a spot-check and conducted expert investigation. Informative conversation was conducted with the injured party Zorica Bulatović regarding the circumstances related to the allegations from the charge. After the collected evidence and information, it was established that the criminal offence destruction and damaging of another’s property was committed, which is prosecuted upon private petition;

(ii) On 19/10/2015, in the period from 20:09 until 21:01, from the Facebook profile belonging to M. D., threats for personal security were addressed to the profile of the injured party Marijana Kadić-Bojanić CEO of “Vijesti” television. A criminal charge was filed against a suspect due to the criminal offence endangering safety as referred the Article 168, para. 1 of the CC After the completed preliminary enquiries on 11/11/2015, and indictment was filed to the Basic court in Nikšić against M.D. due to the criminal offence endangering safety as referred to the Article 168, para. 1 of the CC. By the judgment of the Basic court in Nikšić, M.D. was declared guilty and conditional sentence was imposed on him;

(iii) On 18/10/2015, several persons threw stones in the direction of the premises of “Pink M” television and one of the stones hit a journalist, who reported to have

gained injuries. This event was qualified as the criminal offence causing general danger, as referred to the Article 327, paragraph 1 of the CC. During the proceedings, the injured party was heard in the capacity of a witness, along with other witnesses, and court expertise was performed by a court expert witness in the area of medicine. Prosecutor gave instructions to the police to undertake measures and activities with the aim of identifying the perpetrators of this criminal offence;

(iv) During the protests, Gojko Raičević, journalist was injured. Due to this, the Prosecution office formed the case against an unknown perpetrator – police officers who inflicted bodily injuries on him on 17/10 and 24/10/2015, and endangered his safety on 18/10/2015 by threatening him with a physical assault. During the preliminary enquiries, the prosecutor established that Gojko Raičević participated in the protests, and he did not wear a mark which would indicate that he was a journalist, and he filmed the protests using his telephone, instead of a photo camera or a camera, based on which one would not conclude that he was a journalist. With the aim of providing evidence, the prosecutor interrogated Gojko Raičević in the capacity of a witness, obtained medical documentation and ordered court-medical expertise, after which the prosecutor assessed that in the activities of N.N.) there was a concurrence of essential elements of the substance of the criminal offence maltreatment as referred to the Article 166a, para. 2, in relation to para. 1 of the CC. On the basis of the results of the preliminary enquiries, a decision could not be made about the identity of a perpetrator, due to which the prosecutor gave a mandatory instruction to the police to identify police officers – the perpetrators of this criminal offence, as the authority dealing with the identification of criminal offences perpetrators. Allegations of the charge regarding the event as of 18/10/2015 when the police officers threatened Gojko Raičević, were not confirmed. Namely, Gojko Raičević indicated during the procedure that officers from a vehicle with certain registration plates threatened him during the proceedings, it was established that this particular vehicle was not in the town center at the critical time period as asserted by the injured party, but that it was in another part of the town, i.e. in the suburb instead.

Reply to paragraph 25 of list of issues prior to reporting

269. Ministry of Culture, in cooperation with the MHMR prepared the following audio-visual videos and radio jingles, to demonstrate the progress and problems to resolve this issue: “Stop discrimination and prejudice toward Roma”, “Stop child marriages”, and “Stop begging”. The video and jingles are broadcast by the Public broadcasting service and local public broadcasters.

270. Based on conducting researches (every second year the level of discrimination in the Montenegrin society is monitored and, in accordance with the results of the research, training is organized on the protection from discrimination to the most vulnerable categories. Activities are conducted on a continuous basis in the field of education and promotion of anti-discrimination behaviour and practice toward vulnerable groups, with a special focus on Roma. Training is intended, for professionals and, all those who get in direct contact with discrimination cases in any way, while the promotion relates to conducting media campaign and it is targeted at raising awareness of the overall Montenegrin public, toward the most vulnerable categories of population, with the aim of human rights observing, creating a more supportive and tolerant environment, and respecting diversity.

Reply to paragraph 26 of list of issues prior to reporting

Reply to paragraph 26 (a)

271. In accordance with the valid “Strategy for Improving Quality of Life of LGBT Persons in Montenegro 2013–2018”,³⁴ adopted by the Government of Montenegro in May 2013, in the Chapters “Cultural changes, safety and social acceptance of LGBT persons” and “Law enforcement”, the issue of LGBT persons’ safety is treated in a systemic manner. Programme measures are operationalized and implemented through the adoption of the annual Action plans for the implementation of LGBT Strategy, in consultations with the competent state institutions and LGBT population in Montenegro.

272. In terms of developing and improving anti-discrimination legislation, Montenegro adopted changes and amendments to the Law on Prohibition of Discrimination. With those changes the Law was completely harmonized with the *acquis communautaire* of the European Union. The Law also deals with the issue of sexual minorities protection and each and every direct and indirect discrimination on any grounds, including gender identity, sexual orientation and/or intersexual characteristics is prohibited thereby.

273. From the aspect of criminal legislation, discrimination is incriminated in the legal order in Montenegro. Criminal-legal protection relevant for sexual orientation is provided in the CC.

274. With aim to strengthen the security of LGBTI persons, the Ministry of Interior established a Trust team of LGBTI community and Police Directorate in March 2016.

275. The MHMR undertook concrete activities³⁵ to promote and protect LGBTI human rights, and cooperation with other institutions and LGBTI community.

276. In 2016, the MHMR in cooperation with the Council of Civic Control of Police, Police Directorate of the Ministry of Interior and International Police Association Montenegro Section, published the book “Safety and Fundamental Rights: Dimensions and Perspectives of the Security of LGBT Persons”.³⁶

Reply to paragraph 26 (b)

277. In the period from 01/01/2014 until April 2018, criminal charges were filed against 31 persons due to criminal offences committed to the detriment of the members of LGBT population.

278. Preliminary enquiries were conducted in all cases. After the conducted preliminary enquiries, criminal proceedings were initiated by filing indictments, as follows:

- Against 1 person due to the criminal offence medical malpractice, as referred to the Article 290, para. 2 of the CC. Acquittal was adjudicated;
- 4 persons due to the criminal offence endangering safety, as referred to the Article 168, para. 2, in relation to para. 1 of the CC Convicting verdict was passed and the accused were sentenced to prison terms of 3 months each;
- 1 person due to the criminal offence violent behaviour, as referred to the Article 399 of the CC The trial in this case is ongoing;

³⁴ The Strategy and annual Action plans at the following link:
<http://www.mmp.gov.me/en/library/strategije?alphabet=lat> .

³⁵ Example of such activities is the realization of 9 panel discussions in 9 Montenegrin towns about the subject “Contribution to the improvement of the quality of life of LGBT persons in Montenegro”. The panels gathered the representatives of local institutions/institutes and NGOs from 15 Montenegrin towns dealing with human rights protection.

³⁶ The publication is a part of the national expert literature about LGBTI inclusion which is developed in Montenegro since 2011, and it assists the interested public to create an objective relation toward reality and empirical approach for further consideration.

- 1 person due to the criminal offence racial and other discrimination, as referred to the Article 443 of the CC Convicting verdict was passed and the accused person received a prison sentence;
- 1 person due to the criminal offence violent behaviour, as referred to the Article 399 of the CC. Convicting verdict was passed and the accused person received a conditional sentence;
- A criminal procedure was initiated against 1 person. The accused person was found guilty and convicted.

279. In 2014, three civil cases were formed with the members of LGBT population as involved parties. In one case, the lawsuit was withdrawn, one claim was adopted and one procedure was completed by settlement. The decisions are final and enforceable. In 2015, 2016 and 2017, there were no civil procedures.

280. A case was formed due to the existence of a reasonable doubt that NN committed a criminal offence causing general danger as referred to the Article 327, para.1 of the CC to the detriment of the social center of LGBT community located in Moskovska street no. 129, in Podgorica. Namely, NN, broke a glass on the center with a large stone and then threw a chemical agent – tear gas in, which was activated in the facility. Instructions were given to the police to work on the identification of the perpetrators of this criminal offence.

281. In the morning following this attack, the MHMR organized an urgent repair of the facility, replacement of the glasses and installation of a protective fence, so SOGI center continue its work within a short period.

Reply to paragraph 27 of list of issues prior to reporting

282. In the system of education and upbringing, the Law explicitly stipulates that the following is not allowed in an institution: physical, psychological and social violence; abuse and neglect of children and students; corporal punishment and insulting of personality, i.e. sexual abuse of children and students or employees and all other forms of discrimination in terms of the Law. In the previous period, numerous trainings were conducted for the staff in schools, Manual for teachers was prepared, Brochure for parents, Questionnaire for assessment of peer violence, Guidebook “Sharing responsibility and acting with the aim of prevention and in cases of occurrence of violence – instruction for schools”, adopted by the National Education Council, which thereby became mandatory for application in all schools. Considering the specificities of children with disabilities, the Guidelines and procedures for ensuring safe environment for children in resource centres were prepared. They stipulate the mechanism of recognizing and acting in the cases of all forms of violence over children with disabilities (in the family, institutions, etc.). Trainings were conducted for resource centre’s teams, children, parents and other staff.

283. Article 8 of the Law on Social and Child Protection stipulates that in an institution, or another service provider, an employee shall be prohibited from every form of violence towards a child, an adult or old person, physical, emotional and sexual abuse, taking advantage of the beneficiaries, abuse of trust or authorisations enjoyed in relation to the beneficiary, neglect of the beneficiary and other actions that disturb the health, dignity and development of the beneficiary.

284. Article 9a of the Family Law stipulates that a child must not be subjected to corporal punishment or any other cruel, inhuman or degrading treatment or punishment. This prohibition relates to parents, guardians and all other persons who take care of a child and get in touch with a child, and these persons are also obliged to protect a child from such acts and other persons toward a child.

Reply to paragraph 28 of list of issues prior to reporting

285. The Government adopted the several strategic document aimed to prevent torture and protect from discrimination.³⁷

286. Strategy for the improvement of the quality of life of LGBT persons in Montenegro 2019–2024 will be adopted, with the focus on the process outing of LGBT persons, and key role of the family in this process. It will promote and contribute to the implementation of the Law on Registered Partnership to be adopted until the end of 2018.

287. The presented progress and recognized challenges and obligations for further strengthening the protection and observance of human rights and freedoms in this Report, indicates full dedication of Montenegro to the highest values of democracy and principles contained in the UN Charter, Universal Declaration and other documents in this area.

288. In the following period, the activities will be intensified toward overcoming the challenges in the implementation of the international legal norms, through strengthening the efficiency of the national institutional framework for the full implementation of the legislation and strengthening prevention of breach and abuse of human rights and freedoms. The measures will be undertaken toward building tolerant and anti-discrimination environment which will enable unhindered enjoyment of the rights and freedoms, particularly to the prevention of torture, freedom of expression, thought, consciousness and religion, gender equality, the rights of vulnerable groups. Continuous improvement of the legislation will be ensured, along with strengthening of the institutions and development of training programmes, with the focus on their effective application in practice, with the aim of reinforcing legal security and protection of the rights of all citizens and, achieving the rule of law as the most important guarantee of the democratic functioning of the institutions on the national level.

³⁷ Strategy for Execution of Criminal Sanctions (2017–2021) and Action plan for its implementation, Strategy for the reform of judiciary 2014–2018, Strategy for the improvement of the quality of life of LGBT persons 2013–2018, Plan of activities for achieving gender equality 2013–2017 and 2017–2021, Strategy for improving the position RAE population 2012–2016, Social inclusion strategy RE 2016–2020, Inclusive education strategy 2014–2018, Strategy for integration of persons with disabilities 2008–2016, Strategy for the protection of persons with disabilities from discrimination and promotion of equality 2017–2021, National plan of action for children 2013–2017, Minority policy strategy, Strategy for durable solutions of issues regarding displaced and IDPs from the FYR residing in Montenegro, with special emphasis on the Konik area 2011–2015 and 2017–2019, Strategy for fight against human trafficking 2012–2018, Strategy for the prevention and protection of children from violence 2017–2021, National Strategy for employment and human resources development 2016–2020, Strategy for development of social and child care system for the period 2013–2017, Strategy for foster care development in Montenegro 2012–2016, Strategy for development of women’s entrepreneurship 2016–2020, National Strategy for youth 2017–2021, National plan for the implementation of the Resolution 1325 Women, peace, security, Strategy for development of social care for old persons for the period 2018–2022 is being prepared.