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Instruments**

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**Montenegro\* \*\***

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\*\* Annexes can be consulted in the files of the Secretariat.

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## **I. Country and population**

### **A. Demographic, historical, social and economic characteristics of the State**

#### **1. Geographic position**

1. Montenegro is located in South-East Europe, on the Balkan Peninsula, with access to the Adriatic Sea. It is bordered by Serbia in the north, Kosovo and Albania in the south-east; it shares Adriatic Sea with Italy in the south, while its neighbours in the west are Croatia and Bosnia and Herzegovina.
2. It covers an area of 13,812,000 km<sup>2</sup>. The coastline is 293.5 km long, while length of the land border amounts to 614 km.<sup>1</sup>
3. Montenegro has a population of 620,029. Podgorica is the capital city and administration centre, while Cetinje is the old royal capital – the centre of history and culture. Montenegro has 21 municipalities and 1,256 settlements.
4. Geographic position of the country provides excellent conditions for specific economic activities, principally for transport, tourism and agriculture.
5. Montenegro is connected with the rest of the world with two international airports, those in Podgorica and Tivat, maritime roads through the ports of: Bar (the most important one), Kotor, Zelenika and Risan, railways (from Bar and Podgorica towards Serbia and further, to the Central and Eastern Europe), and with numerous roads.
6. The Parliament of Montenegro adopted the Declaration of Ecological State of Montenegro in 1991. There are as many as five national parks in the small territory of Montenegro: Biogradska gora, Skadar Lake, Durmitor, Lovćen and Prokletije. Natural and cultural, and historical areas of Kotor and National Park Durmitor, with the Tara river basin, were placed on UNESCO list of protected areas. The tentative list (list of nominated areas) includes: historical core of Cetinje, old town of Bar, Duklja, National Park Biogradska Gora, *stećci* – mediaeval monumental tombstones.

#### **2. Brief historical overview**

7. Montenegro is an old European state, with history longer than a millennium. It was internationally recognized at the Congress of Berlin in 1878. It became a kingdom in 1910.
8. After the Second World War, despite being on the side of victorious powers, Montenegro lost its statehood and its territory was annexed to the new state, the Kingdom of Serbs, Croats and Slovenes (1918), and the Kingdom of Yugoslavia afterwards (1929).
9. After the Second World War, Montenegro restored a part of its sovereignty as a federal republic, first as a part of the Federal People's Republic of Yugoslavia (FPRY) and, since 1953, as a part of the Socialist Federal Republic of Yugoslavia (SFRY). After the dissolution of SFRY, Montenegro stayed in union with Serbia and the Federal Republic of Yugoslavia (FRY) was proclaimed in 1992.
10. After the dissolution of SFRY, the forces favouring independence of the Montenegrin state became stronger, especially since 1997. In 2003, Federal Republic of

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<sup>1</sup> Statistics Office of Montenegro

Yugoslavia was transformed into the State Union of Serbia and Montenegro, with a three-year moratorium on the referendum on restoration of independence.

11. The citizens of Montenegro decided to restore independence of Montenegro in a democratic referendum held on 26 May 2006. Turnout was 86.5 per cent, which was the highest turnout figure in the Montenegrin history, with 55.5 per cent voting in favour of independence of Montenegro.

12. The modern State of Montenegro is going through the European and Euro-Atlantic integration processes, which defines key priorities of the national and legal policy – EU and NATO membership. It became member of the World Trade Organization in 2012.

### 3. Population

13. According to the 2011 census of population, households and dwellings, Montenegro has a population of 629,029, with women accounting for 50.61% or 313,793 and men accounting for 49.39 per cent or 306,236. Podgorica has the largest population of 185,937 which constitutes 30 per cent of the population of Montenegro, followed by Nikšić and Bijelo Polje. Around 50 per cent of the total population of Montenegro is concentrated in these three municipalities. The municipalities with the smallest population size are Šavnik 2,070, Plužine 3,246 and Žabljak 3, 569. Urban settlements are inhabited by a population of 392,020 which constitutes 63 per cent of the total population, while the other settlements are inhabited by a population of 228,009.

14. According to the latest population census conducted in 2011<sup>2</sup> Montenegro has a population of 620 029 with 44.98 per cent (278,865) accounting for Montenegrins, followed by 28.73 per cent of Serbs (178,110), 8.65 per cent of Bosniaks (53,605), 4.91 per cent of Albanians (30,439), 3.31 per cent of Muslims (20,537), 0.97 per cent of Croats (6,021), 0.07 per cent of Bosnians (427) and others (see Annex I – Population by national and ethnic background and mother tongue).

15. The average age of the population of Montenegro is 37. Women, on average, are 38 years old, while men are 36 years old.

16. Adult population accounts for 76.5% of the total population.

17. See below, table on population by age and sex.<sup>3</sup>

**Table 1: Population by age and sex**

<i>Age</i>	<i>Total</i>	<i>Men</i>	<i>Women</i>	<i>Men %</i>	<i>Women %</i>
	620,029	306,236	313,798	49.4	50.6
0-4	38,950	20,361	18,589	52.3	47.7
5-9	38,430	20,016	18,414	52.1	47.9
10-14	41,371	21,389	19,982	51.7	48.3
15-19	44,093	22,815	21,278	51.7	48.3
20-24	42,816	22,084	20,732	51.6	48.4
25-29	45,793	23,299	22,494	50.9	49.1
30-34	44,495	22,188	22,307	49.9	50.1
35-39	41,879	20,523	21,356	49	51

<sup>2</sup> Source: Statistics Office of Montenegro

<sup>3</sup> Source: Statistics Office of Montenegro

<i>Age</i>	<i>Total</i>	<i>Men</i>	<i>Women</i>	<i>Men %</i>	<i>Women %</i>
40-44	40,496	20,136	20,360	49.7	50.3
45-49	43,089	21,404	21,688	49.7	50.3
50-54	43,613	21,817	21,796	50	50
55-59	41,223	20,509	20,714	49.8	50.2
60-64	34,196	15,941	18,255	46.6	53.4
65-69	22,121	9,774	12,347	44.2	55.8
70-74	25,141	10 909	14,323	43.4	56.6
75-79	17,184	7,251	9,933	42.2	57.8
80-84	10,021	4,050	5,971	40.4	59.6
85-89	3,739	1,324	2,415	35.4	64.6
90-95	885	283	602	32	68
95-99	202	61	141	30.2	69.8
100 and over	44	13	31	29.5	70.5
Not applicable	248	92	156	37.1	62.9
0-5	46,114	24 123	21 991	52.3	48.7
6-15	81,700	42 334	39 366	51.8	48.2
15-19	44,093	22 815	21 278	51.7	48.3
0-17	145,126	75,367	69,759	51.9	48.1
18 and over	474,655	230,777	243,878	48.6	51.4
0-14	118,751	61,766	56,985	52	48
15-64	421,693	210,980	210,980	50	50
65 and over	79,337	33,665	45,672	42.4	57.6

18. The working age population (between 15 and 64 years) accounts for 68 %, while the population aged 65 years and over accounts for 12.8%.

19. In Montenegro, 63 per cent of the population lives in urban areas, while 37 per cent lives in rural areas.

20. According to the data from July 2012, there are 8,611 internally displaced persons<sup>4</sup> and around 3,600 displaced persons<sup>5</sup> living in Montenegro.

21. In the period from 07 November 2009 (the date of entry into force of the Law on Amendments to the Law on Foreigners) until 22 June 2012, displaced persons filed a total of 3,335 applications for permanent residence. Of that number, 2,288 applications were approved, 2 applications were rejected, while the procedure is still pending for the remaining applications.<sup>6</sup>

<sup>4</sup> Records of the Bureau for the Care of Refugees

<sup>5</sup> Records of the Ministry of Interior

<sup>6</sup> Records of the Ministry of Interior

22. Moreover, in the period from 07 November 2009 until 22 June 2012, internally displaced persons filed a total of 4,428 applications for permanent residence. Of that number, 2,570 applications were approved, 23 applications were rejected, while the procedure is still pending for the remaining applications.<sup>7</sup>

23. In the period from 07 November 2009 until 22 June 2012, displaced and internally displaced persons filed a total of 333 applications. Of that number, 91 applications were resolved, while the procedure is still pending for the remaining applications.<sup>8</sup>

24. See below, table on births, deaths and marriages in 2005, 2006, 2007, 2008 and 2009.

**Table 2: Births, deaths and marriages**

Year	Per 1,000 people					Death		Death	
	Live births	Deaths	Natural increase	Marriages entered into	Marriages divorced	births per 1,000 live births	Under-five mortality	births per 100 live births	Vital index of live births per 100 death births
2005	11.8	9.4	2.4	5.3	0.8	9.5	11.2	0.4	125.9
2006	12.1	9.6	2.5	5.5	0.8	11	12.1	0.3	126.2
2007	12.5	9.6	3	6.4	0.7	7.4	8.7	0.3	131
2008	13.1	9.1	4.1	5.5	0.7	7.5	8.2	0.4	144.7
2009	13.7	9.3	4.4	6.1	0.7	5.7	6	0.5	147.4

25. Population growth rate in the period 2001-2003 amounted to 99.98, while the population decline rate was 0.02.pp over the same period.

26. Population density in Montenegro, which covers an area of 13,812 km<sup>2</sup>, amounted to 44.90 inhabitants per km<sup>2</sup> in 2003, while in 2011 it amounted to 44.89 inhabitants per km<sup>2</sup>.

27. According to the 2007 Constitution, the official language in Montenegro is Montenegrin. Cyrillic and Latin alphabet have equal status. Serbian, Bosniak, Albanian and Croatian (languages spoken in Montenegro according to the 2011 census) are also in official use (see Annex I – Population by national and ethnic background and mother tongue).

28. Religious communities are equal and free in the exercise of religious rites and religious affairs. Religious communities are separated from the state.

29. See below, table on number of inhabitants by religion, per age group<sup>9</sup>

**Table 3: Number of inhabitants by religion, per age group**

Religion	Total	0-9	10-19	20-29	30-39	40-49	50-59	60-69	70 and over	Not applicable
Orthodox	446,858	5,2057	59,379	62,764	6,3245	6,1157	6,2867	4,1989	4,3271	129
Catholic	21,299	2,095	2,538	2,770	2,661	2,971	3,147	2,503	2,607	7

<sup>7</sup> Records of the Ministry of Interior

<sup>8</sup> Records of the Ministry of Interior

<sup>9</sup> Source: Statistics Office of Montenegro

<i>Religion</i>	<i>Total</i>	<i>0-9</i>	<i>10-19</i>	<i>20-29</i>	<i>30-39</i>	<i>40-49</i>	<i>50-59</i>	<i>60-69</i>	<i>70 and over</i>	<i>Not applicable</i>
Islamic	118,477	18 877	19,561	18 009	1,6024	1,5287	1,4051	8,622	8,022	24
Adventists	894	221	84	92	122	73	88	70	81	63
Agnostics	451	9	39	114	73	58	81	46	31	-
Atheists	7,667	255	586	1,117	972	961	1,497	1,124	1,151	4
Buddhists	118	2	12	51	22	13	13	4	1	-
Christians	1,460	117	162	271	209	219	236	136	110	-
Jehovah's witnesses	145	6	22	11	26	45	23	5	7	-
Protestants	143	17	7	18	36	18	21	18	6	2
Other	6,337	679	742	761	778	792	933	715	931	6
Those who do not want to state their religion	16,180	3,045	2,332	2,206	2,206	1,991	1,879	1,085	998	13

30. See below, table on dependency ratio (percentage of population below 15 and above 65 years of age).<sup>10</sup>

**Table 3: Dependency ratio**

	<i>2003</i>	<i>2011</i>
below 15	127,461	11,8751
above 65	67,806	75,546
total (below 15 + above 65)	195,267	194,297
total population	620,145	620,029
dependency ratio	31.49%	31.34%

31. See below, table on statistical data on birth and death rates.<sup>11</sup>

**Table 4: Birth and death rates**

	<i>1991</i>	<i>2001</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Birth rate	16.5	14.4	11.8	12.1	12.5	13.1	13.7	12
Death rate	6.8	8.8	9.4	9.6	9.6	9.1	9.3	9.1

32. See below, table on average life expectancy (average age of a deceased person).<sup>12</sup>

**Table 5: Average life expectancy**

<sup>10</sup> Source: Statistics Office of Montenegro

<sup>11</sup> Source: Statistics Office of Montenegro

<sup>12</sup> Source: Statistics Office of Montenegro

	2010
Total	71.02
Men	68.48
Women	73.78

33. See below, table on fertility rate.<sup>13</sup>

**Table 6: Fertility rate**

	1990	2000	2005	2006	2007	2008	2009	2010
Total fertility rate	1.89	1.85	1.6	1.64	1.69	1.8	1.85	1.66

34. See below, table on average household size<sup>14</sup>

**Table 7: Average household size**

	1991	2003
Average household size	3.7	3.4

35. See below, table on percentage of single parents.<sup>15</sup>

**Table 8: Single parents**

	2003
Total number of households	180,517
Single mother households	17 652 or 9.78%
Single father households	4 263 or 2.36%

36. See below, table on percentage of population in urban and rural areas.<sup>16</sup>

**Table 9: Population in urban and rural areas**

Population size	2003		2011	
	%		%	
Total	620,145	100.00%	620,029	100.00%
Urban	383,808	61.89%	392,020	63%
Other	236,337	38.11%	228,009	37%

<sup>13</sup> Source: Statistics Office of Montenegro

<sup>14</sup> Source: Statistics Office of Montenegro

<sup>15</sup> Source: Statistics Office of Montenegro

<sup>16</sup> Source: Statistics Office of Montenegro



### 3. Social, economic and cultural indicators of development

37. According to the criterion of the United Nations Development Program (UNDP) Montenegro is treated as a country with medium development and ranks 54th in terms of Human Development index/HDI ranking for 2011<sup>17</sup>.

#### Health and health care for the population

38. Article 69 of the Constitution of Montenegro stipulates that everyone is entitled to health care. Children, pregnant women, elderly persons and persons with disability are entitled to health care funded from public revenues, unless they exercise such rights on some other grounds.

39. The health policy-maker in Montenegro is the Ministry of Health, while the leading institution in the field of public health in Montenegro is the Public Health Institute whose establishment and operations are governed by the Law on Health Care.

40. General objectives of the health sector development in Montenegro are defined in the Strategy of Health care Development in Montenegro for the period 2003 – 2020.

41. Adoption of the strategy made it possible to set priorities in the health sector and other sectors of social development which will secure implementation of health policy.

42. The new health sector strategy and health development policy are based on recommendations of the World Health Organization which proclaimed that the main social objective was achieving a level of health of all the citizens which will enable them to live social and economically productive life.

43. Health care rights are governed by the Law on Health Care<sup>18</sup>. This law defines institutional requirements for reform of the health system, primarily reform of the primary health care, with the aim of increasing efficiency and quality of health care.

44. The fundamental concept of the law is defined on the basis of health policy and health sector development vision through the following:

- building public health system focused on the promotion, improvement and preservation of the population health, and also by applying inter-sectorial approach in addressing population health problems that serves as a basis of continuous economic and social development of the country;
- provision of primary health care to the entire population, which serves as a basis of achieving an acceptable health level;
- increase in availability of and accessibility to health care by the population, by introducing the system of a family health team or a family physician in primary health care, that will monitor health condition of the population that have chosen them and meet the majority of their health needs;
- reorganisation and enabling of the secondary and tertiary levels of health care to efficiently coordinate all parts of the system and particularly to support development and achievement of objectives in primary health care;
- systematic identification of health problems, more efficient measures to address them and preparation of special strategies for improving health and health condition

<sup>17</sup> Source: UNDP/International Human Development Indicators, 2011

<sup>18</sup> Official Gazette of RMNE 39/04 and 14/10

of the following vulnerable categories: mothers, children, the elderly and people with disabilities.

45. Provisions of this law make it possible to conduct reform and organise health system on the basis of the primary health care.
46. Strengthening primary health care will enable health problems of the population at the primary level to be addressed by introducing the concept of a family health team of physicians, and also by undertaking activities to raise the level of the population health, changing its attitude towards health, promoting healthy lifestyles and increasing responsibility for one's own health, while also defining health priorities and programmes.
47. Medical staff providing primary health care receives continuous training in order to be able to address health problems and provide health care in a more comprehensive manner, as well as to be able to provide health care in accordance with the regulations and build trust among citizens.
48. Functioning of the health care system is based on the principles of comprehensiveness, accessibility, availability and continuity in the provision of health care, particularly at the primary level.
49. Health care is provided at the primary, secondary and tertiary levels, while primary health care is the basis of the health system. Primary health care is an integral part of the health care system and represents a central function of the health system.
50. Family physician and family health team in a health care institution facilitate the first contact of citizens with the health system, providing health care to the citizens in the place nearest to where they live and work and representing a "replica" of the overall health system.
51. Primary health care is the core of the health system, around which all other levels of health care (secondary and tertiary) will be organised. The goal of the system is to provide health care to all the citizens on a continuous basis.
52. Specialised health care institutions at the secondary and tertiary levels will provide support to the family health teams in order to enable citizens to receive this type of specialised care in the place where they live and work.
53. Priority health care measures clearly show directions for organising the health system that is focused on preserving and improving health condition of the population. These measures are available to all the citizens and are related to the activities aimed towards promotion of health improvement, prevention and early detection of disease and inability, early treatment and rehabilitation of the diseased and the incapacitated.
54. This predominantly refers to orientation towards prevention and development of the capacity to provide primary health care to the entire population in an efficient manner, with a particular focus on health care for the most vulnerable population groups (care for mother and child, health care for socially disadvantaged population groups, care for the elderly and the enfeebled etc.).
55. Provisions of this law also stipulate a specific health care for the employed and define obligations to be undertaken by the employers under an agreement they conclude with the health care institution that provides this kind of health care.

56. The Law on Health Insurance<sup>19</sup> introduced the scope of health care standards for the population that enumerates medical measures and health care services funded from the compulsory health insurance.

57. Compulsory health insurance, as a part of the social insurance system for citizens, is based on the principles of commitment, reciprocity and solidarity in respect of all the citizens of Montenegro and other persons, and is funded from the budget of the Health Insurance Fund.

58. For the purposes of protecting the most vulnerable population - children, pregnant women, persons older than 65 years of age, people with disabilities and other vulnerable population categories are not obligated to pay a share of health care costs (i.e. to make the so-called co-payment).

59. This law also envisages a supplementary health insurance as a special kind of health insurance that, on the basis of the principle of voluntariness, secures coverage of health care costs up to the full amount of these costs from the compulsory health insurance.

60. In addition to the laws mentioned above which govern the scope of rights and standards in respect of health care, the following are also in force in Montenegro:

- - Law on Protection and Exercise of the Rights of the Mentally Ill (Official Gazette of RMNE 32/05), which secures the exercise of rights and freedoms of the mentally ill in accordance with international documents and general rules of international law.
- - Law on the Protection of Population against Communicable Diseases (Official Gazette of RMNE 32/05 and Official Gazette of MNE 14/2010),
- - Law on Restriction of the Usage of Tobacco Products (Official Gazette of RMNE 52/04 and Official Gazette of MNE 32/12);
- Law on Providing Safe Blood (Official Gazette of RMNE 11/07);
- Law on Medicines (Official Gazette of MNE 56/2011);
- Law on Medical Devices (Official Gazette of RMNE 79/04 and Official Gazette of MNE 53/2009);
- Law on Data Collections in the field of Health Care (Official Gazette of MNE 80/08);
- Law on Emergency Medical Care (Official Gazette of MNE 49/08);
- Law on Health Inspection (Official Gazette of MNE 79/08);
- Law on Sanitary Inspection (Official Gazette of MNE 79/08);
- Law on Requirements and Procedure regarding the Termination of Pregnancy (Official Gazette of MNE 53/2009);
- The Law on Infertility Treatment with Assisted Reproductive Technologies (Official Gazette of MNE 74/2009);
- Law on Patient Health Care (Official Gazette of MNE 25/2010);
- Law on Patient Rights (Official Gazette of MNE 40/2010);
- Law on Genetic Data Protection (Official Gazette of MNE 25/2010);
- Law on Taking and Using Biological Samples (Official Gazette of MNE 14/2010);

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<sup>19</sup> Official Gazette of RMNE 39/2004 and 14/12

- Law on Taking and Transplantation of Human Body Parts for the purpose of Treatment (Official Gazette of MNE 76/2009).
- Law on the Prevention of Drug Abuse (Official Gazette of MNE 28/2011);
- Law on Control of Production and Release into Circulation of Substances that can be used in Manufacturing Narcotics and Psychotropic Substances (Official Gazette of MNE 83/2009).

61. The Government of Montenegro adopted the following strategies in the previous period:

- Strategy for Health Care Development, adopted in 2003;
- National Programme for the Prevention of Violence, adopted in 2003;
- Strategy for Improvement of Mental Health, adopted in 2004;
- HIV/AIDS Strategy, adopted in 2004;
- Strategy for the Prevention and Control of Smoking, adopted in 2005;
- Safe Blood Strategy, adopted in 2006;
- Strategy for Preserving and Improvement of Reproductive Health, adopted in 2005;
- Food Quality and Safety Strategy, adopted in 2006;
- Strategy for Prevention and Control of Chronic Non-Communicable Diseases, adopted in 2008;
- Ant-Corruption Action Plan in the Health Care Sector, adopted in 2009.

62. In addition to the above mentioned, a large number of pieces of secondary legislation were also adopted for the purpose of implementation of the above laws.

63. Indicators: Infant mortality rate<sup>20</sup> shows a declining trend and it was 7.8 in 2004 and 5.7 in 2009. The under-five mortality rate in 2004 amounted to 9.5, while in 2009 it was 6.0. As it can be seen from the tabular overview below, figures for infant and under-five mortality rates slightly increased in 2010 compared to 2009. This is a result of the general economic situation in the country, primarily increase in the unemployment rate.

**Table 10: Infant and under-five mortality rates**

<i>Indicator</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Infant mortality rate (per 1,000 live births)	7.8	9.5	11.0	7.4	7.5	5.7	6.7
Under-five mortality rate (per 1,000 live births)	9.5	11.1	12.1	8.7	8.2	6.0	7.5

64. In the period mentioned above (2004 - 2009) Montenegro recorded only one case of a woman who died during pregnancy, delivery or in the period following the delivery and it was in 2007.<sup>21</sup> Since international standards stipulate for this rate to be calculated per 100,000 live births, then on the basis of this methodology it amounts to 12.76%, even though only one death case was recorded.

<sup>20</sup> Source: I Annual Report on Millennium Development Goals in Montenegro, 2011

<sup>21</sup> Source: I Annual Report on Millennium Development Goals in Montenegro, 2011

**Table 11: Maternal mortality**

<i>Indicator</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Maternal mortality ratio per 100,000 live births	0	0	0	12.76	0	0
Percentage of deliveries during which qualified staff participated	99.6	99.9	100	100	100	100

65. Abortion rate is calculated per 1,000 live births and until 2010 it was possible to monitor value of this indicator on the basis of the number of abortions performed only in public health care institutions.<sup>22</sup> Therefore, if observed realistically, the number of abortions is bigger than what has been recorded. The indicator for the abortion rate is expected to become more precise once the reform of secondary and tertiary sectors and networking of public and private health care institutions have been completed.

**Table 12: Abortion rate**

<i>Indicator</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Abortion rate	244.88	265.51	225.60	214.83	190.72	164.89	180.23

66. Montenegro is the country with low HIV/AIDS prevalence rate (0.01%). In the period from 2005 until 2010, there were between 7 and 14 new HIV/AIDS cases registered per year, with the highest number of cases recorded in 2009 and 2010.<sup>23</sup> HIV/AIDS testing in Montenegro has significantly improved over the past few years as a result of establishing the network of 8 regional counselling centres for confidential counselling and testing. Coverage of the territory of Montenegro with counselling centres meets the standards. Availability, equality, confidentiality and accessibility are ensured. HIV counselling and testing services are free of charge.

**Table 13: HIV/AIDS**

<i>Indicator</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Rate of newly registered HIV cases (per year) per 100,000 population	0.3	1.37	1.07	1.38	1.38	2.16	2.16
Rate of voluntary HIV testing	/	0.16	0.25	0.39	0.68	1.14	1.37

67. Dominant causes of death in Montenegro are cardiovascular and malignant diseases that show the growing trend.<sup>24</sup> Etiology of these diseases is most frequently explained by a lifestyle, unhealthy diet, reduced physical activity. The Strategy for Prevention and Control of Chronic Non-Communicable Diseases (2008), National Strategy for the Control of Tobacco Smoking (2005) and Action Plan for Food and Diet 2010 – 2014 (2009) and other accompanying documents were adopted with the aim of changing this trend. It is also worth saying that implementation of the existing laws that govern the rights and obligations in

<sup>22</sup> Source: I Annual Report on Millennium Development Goals in Montenegro, 2011

<sup>23</sup> Source: Annual Report on HIV/AIDS in Montenegro for 2010, Public Health Institute 2011

<sup>24</sup> Source: I Annual Report on Millennium Development Goals in Montenegro, 2011

connection with the types of behaviour that are not compliant with health requirements has a significant impact on preservation and improvement of the population health.

**Table 14: Mortality rates**

<i>Indicator</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Cardiovascular mortality rate (per 100,000 population)	479.61	499.35	548.38	532.78	490.61	509.23
Mortality rate for malignant neoplasms (per 100,000 population)	157.11	166.01	157.60	150.60	146.30	141.08

68. See below, table on incidence of major communicable diseases/incidence per 100,000 population.

**Table 15: Communicable diseases**

<i>Disease</i>	<i>2000</i>	<i>2005</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Varicella	392.3	499.8	606.0	712.0	408.3	322.1
Influenza	8,163.7	631.8	2,346.5	1423.2	2,844.0	44.2
Angina streptococcica	77.0	262.6	203.1	325.6	190.7	128.9
Mononucleosis infectiosa	8.5	28.0	24.1	23.0	21.1	15.5
Enterocolitis acuta	278.3	163.4	163.6	857.2	233.7	130.6
Salmonellosis	54.2	59.1	47.9	30.6	65.2	49.3
Dysentery bacillaris	7.3	1.9	6.5	8.6	2.5	1.7
Meningitis virosa	60.9	8.8	7.4	29.2	1.2	4.9
Hepatitis virosa A	75.3	14.5	13.0	9.6	1.4	7.1
Hepatitis virosa B	4.0	6.1	3.1	3.7	2.4	2.3

### Poverty

69. Total poverty rate increased in 2009<sup>25</sup>, as well as the depth and the severity of poverty. The share of the poor increased from 4.9% in 2008 to 6.8% in 2009. Available indicators in respect of the trends concerning average salaries and consumption in 2009 show that the increase in poverty rate is an expected result of unfavourable global economic and financial developments. Poverty gap, as an indicator of the depth of poverty which shows average deviation of consumption of the poor from the poverty line, increased from 0.9% in 2008 to 1.4 in 2009<sup>26</sup>, while the severity of poverty increased from targeted 0.3% in 2008 to 0.5%.<sup>27</sup>

<sup>25</sup> Source: I Annual Report on Millennium Development Goals in Montenegro, 2011

<sup>26</sup> The indicator shows that the rescue of the poor from poverty requires funds to be provided by the society in the amount of 1.4% of the poverty line per each inhabitant, and then these funds should be allocated to each poor person exactly in the amount which is sufficient for their total consumption to reach poverty line.

<sup>27</sup> The severity of poverty measures relative deviation of the consumption of the poor from poverty line, while it also takes into account inequality among the poor because an increased weight in calculation is assigned to the poorest people, i.e. those whose consumption is more distant from the poverty line. Poverty estimates are based on the national absolute poverty line calculated in accordance with the methodology recommended by the World Bank. The same methods were applied and the same

70. See below, table on percentage of population below national poverty line.<sup>28</sup>

**Table 16: Population in poverty**

2006	2007	2008	2009	2010
11.30%	8.00%	4.90%	6.80%	6.60%

71. Between 2008 and 2009, the share of consumption of the poorest 20% of the population in the total consumption decreased from 9.5% to 9.2%. On the other side, the richest 20% increased their share of the distribution of total consumption from 36.2% to 37.3%. Consumption of the richest 20% in 2009 was 4.1 times bigger than consumption of the poorest 20%.

72. Percentage of consumption (of households) for food, housing, health care and education (monthly household average in EUR).<sup>29</sup>

**Table 17: Consumption**

	2005	2006	2007	2008	2009	2010
Food and soft drinks	198	193	215	246	221	225
Housing, water, electricity	57	57	71	77	82	87
Health care	16	14	21	18	17	19
Education	8	5	12	13	14	10

73. See below, table on Gini coefficient (concerning distribution of the household consumption)<sup>30</sup>

**Table 18: Gini coefficient**

2006	2007	2008	2009	2010
24.40%	26.40%	25.30%	26.40%	24.30%

74. There is a significant discrepancy between levels of poverty in the northern region and other parts of the country. Poverty rate in the northern region amounted to 13.2% in 2009, which is a 4.3% increase. Around 30.3% of the population of Montenegro lives in that region, while the share of the poor accounts for 58.6%. Poverty rate in the central region equals 4.0%, while in the southern region it amounts to 4.4%.

75. A total of 75.2% of the poor lives in the rural areas of Montenegro, while in urban areas the figure reaches 24.8%. Rural population is facing higher poverty risk compared to urban population. Poverty rate in rural areas amounted to 14.8% in 2009, while it amounted to 4.0% in Podgorica and 1.6% in other urban areas. Poverty risk in urban areas, excluding Podgorica, is almost two times lower than Montenegrin average. A total of 34.7% of population lives in rural areas, where the share of the poor accounts for 75.2%.

procedures were followed throughout entire period 2006-2009 which secures good comparability of results in the course of time and identification of major poverty trends.

<sup>28</sup> Statistical Office of Montenegro

<sup>29</sup> Source: Household Consumption Survey, Statistical Office of Montenegro

<sup>30</sup> Source: Statistical Office of Montenegro

76. Poverty rate in urban areas in 2009 amounted to 2.6% and it was several times higher than that in rural areas which was 14.8%.

77. The poor usually live in large households, while the highest poverty rate is encountered in six-member households. Poverty risk in households with more than two children is almost two times higher than the national average.

78. Education reduces poverty risk significantly. Poverty risk is exceptionally low for persons with college and high education, as well as for all the household members where the breadwinner attained such education. Salaries in both, private and public sectors, in the majority of cases secure sufficient funds for the households in order for its members to avoid absolute poverty.<sup>31</sup>

79. Some population groups are considerably poorer than the other. Roma and Egyptians (RE) constitute population that is socially disadvantaged to the highest extent, with the poverty rate equalling 36%, followed by 34% for refugees/displaced persons, 30% for social assistance beneficiaries, 15.7% for pensioners, 12.3% for the long-term unemployed and 11.9% for people with disabilities.<sup>32</sup>

80. In response to the emerging needs, the Government of Montenegro adopted a number of documents aimed at poverty alleviation.<sup>33</sup> Generally speaking, around 100 million € have been spent annually for different programmes since adoption of the Development and Poverty Reduction Strategy, which either directly or indirectly contributes to poverty alleviation in Montenegro. Programmes are designed in cooperation with and support from the World Bank and European Commission and by using IPA funds.

81. Moreover, transfers in the social and child welfare system in Montenegro account for more than 50% of social benefits for the poorest population groups. The Family Financial Support Programme and a large number of other social benefits, such as health care provided free of charge, right to individual disability benefit, right to child allowance, and electricity subsidies for vulnerable categories are only some of the efforts made towards mitigating the effects of poverty.

### **Labour and unemployment**

82. The Employment Office registered 32,552 unemployed people on 31 December 2011 (women accounted for 14,353 or 44.81%).

83. Unemployment rate, observed as the ratio between the number of the unemployed and size of active population, amounted to 13.2% in 2011.

84. See below, table on employment.<sup>34</sup>

### **Table 19: Employment**

<sup>31</sup> Source: Poverty Analysis for Montenegro in 2008/ Statistical Office of Montenegro

<sup>32</sup> National Human Development Report, UNDP/2009

<sup>33</sup> The following documents were adopted in the period 2003-2009: Development and Poverty Reduction Strategy (2003-2007); Strategy for Reduction of Poverty and Social Exclusion (2007-2011); Strategy for the Development of Social and Child Welfare System in Montenegro (2008-2012); Strategy for Integration of People with Disabilities in Montenegro (2008-2016) and Action Plan for implementation of the Strategy for Integration of People with Disabilities in Montenegro (2008-2009); Strategy for Development of Social Protection for the Elderly in Montenegro (2008-2012); National Action Plan for the Decade of Roma Inclusion 2005-2015 in the Republic of Montenegro: Strategy for Improvement of the Position of RAE Population in Montenegro (2008-2012).

<sup>34</sup> Source: Ministry of Finance of Montenegro



<i>Indicator</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Number of the employed								
Average number	143,479	144,340	150,800	156,408	166,221	174,152	161,742	163,082
Number of the employed								
Growth rate	0.6	0.6	4.5	3.7	6.3	4.8	-7.135	0.8
Number of the unemployed								
End of the period	58,950	48,845	38,876	31,469	28,378	30,169	32,106	30,552
Unemployment rate								
End of the period	25.4	21.1	16.8	13.6	12.2	13	13.8	13.2

85. Amendments to the Labour Law (Official Gazette of MNE 59/11) which have been in force since 22 December 2011 resulted in the deletion of Article 165, which used to stipulate that the employer may conclude service contract with a person for the purpose of performing work that is outside of the scope of activity of the employer, as this was a mechanism abused to the highest extent in labour legislation. In the past, employers frequently concluded service contracts instead of labour contracts (fixed term or open-ended) even though the subject of such agreement involved performance of work that fell within the scope of activity of the employer.

86. The service contract, as a special contract, does not have the effect of the character of an employment relationship. It has the character of an obligation and as such it may be concluded but in accordance with the regulations governing obligations.

87. Therefore, if the employer concludes this type of contract with a person who will perform a specific work for an agreed remuneration, under special regulations governing the field of taxation system and social insurance contributions, then the personal income generated from the work performed under the service contract is reported and the tax on that income in the amount of a corresponding percentage and only the contribution for pension and disability insurance on personal income of that person are paid, which makes it different from labour contract. Therefore, the contribution paid on personal income generated under the service contract is calculated into the amount which is the basis for exercising the right to an amount of pension in accordance with the regulations governing pension and disability insurance.

88. The state takes significant employment measures that predominantly aim to provide vocational training and retraining to the vulnerable categories (RE, people with disabilities, single parents etc.) for the purpose of creating conditions to make it easier for them to find a job in the labour market. In accordance with the National Strategy of Employment and Human Resources Development for the period 2007-2011 and National Action Plan for the period 2008-2009, the Employment Office implemented active employment measures in 2009, which included 2,247 hard-to-employ people who account for 46.75% of the total number of participants in these programmes. By implementing these measures, the Office provided employment for around 40% of hard-to-employ people who participated in the programmes in 2009.

<sup>35</sup> Data is not comparable due to the change in data source

89. See below, table on employment by major economic sectors, including data presented separately for formal and informal sectors.<sup>36</sup>

**Table 20: Employment**

	2006	2007	2008	2009	2010	2011
Total	150,800	156,408	166,221	174,152	161,742	163,082
Agriculture, forestry and water management	2,607	2,586	2,651	2,700	2,347	2,367
Fisheries	115	112	129	119	102	101
Mining	4,159	3,753	3,721	3,178	2,332	2,028
Processing industry	26,065	25,697	24,335	21,824	16,563	15,313
Electricity generation	5,627	5,594	6,042	5,456	4,369	4,463
Construction industry	6,853	6,647	8,831	9,997	7,903	7,966
Wholesale and retail trade, repair	29,602	30,750	31,854	36,117	36,918	37,536
Hotels and restaurants	10,928	11,307	14,641	16,678	13,131	12,999
Transport, storage and communications	12,133	11,358	12,798	13,858	12,541	12,107
Financial brokering	3,114	3,143	3,476	3,748	3,959	4,219
Activities in relation to real estate	5,905	5,354	5,631	7,356	9,264	10,598
State administration and compulsory social insurance	10,345	17,575	18,643	18,860	18,868	19,210
Education	12,846	12,687	12,892	12,992	11,854	12,206
Health and social insurance	12,012	12,004	12,356	12,238	11,238	10,946
Other utility, social and individual services	8,489	7,481	8,221	9,031	10,353	11,023

### Education

90. Article 75 of the Constitution of Montenegro guarantees the right to education under equal conditions. Elementary education is compulsory and free of charge. Autonomy of higher education and scientific institutions is guaranteed.

91. Secondary and higher education in Montenegro are free of charge and provided full time.

92. Pre-school education includes children under six years of age, which is the period before they start school. Day nurseries cater for children under three years of age, while children between three and six years of age are assigned to kindergartens by educational groups organised by age.

93. There are 21 pre-school institutions in Montenegro, with the network comprising 91 educational units in which there are 414 educational groups. The total number of enrolled

<sup>36</sup> Source: Statistical Office of Montenegro

children in the 2010/2011 school year was 13,176. Pre-school education included 14,248 children in the 2011/2012 school year.

94. Under the law<sup>37</sup>, elementary education is provided in an elementary school, it is compulsory and free of charge for all the children aged between six and 15 years, regardless of their sex, race, religion, social background or any other personal feature. Parents and guardians have the right to choose a form of education for their children, but they are also obliged to facilitate the exercise of the right to elementary education for their children. Moreover, under conditions laid down by the law, parents may organise home schooling for their children. Elementary education of persons older than 15 years of age is provided in special classes of the school or in the schools for adult education.

95. In the 2012/2013 school year, all the children in elementary schools in Montenegro will be included in a nine-year education that is organised in three cycles. The first cycle, from the first to the third grade, includes class teaching. Due to the developmental characteristics of children, instruction in the first grade is provided by a class teacher and an educator. Children are afforded the opportunity to learn a foreign language, as an optional subject, in the first grade. In the second and third grade teaching is provided by class teachers. In the second cycle, from the fourth to the sixth grade, there is a gradual transition from class teaching to subject teaching, while instruction is provided by the class teacher together with the subject teachers in higher classes of this cycle. The third cycle, from the seventh to the ninth grade, consists completely of subject teaching and instruction is provided by subject teachers. Pupils are also provided with optional subjects in this cycle.

96. In the school year 2010/2011, elementary school was attended by 71,078 children (49% were girls). In the school year 2011/2012, elementary school was attended by 69,976 pupils, which is 1.6% less than the year before. The number of pupils enrolled in the first grade in the school year 2011/2012 was 7,441, which is 0.5% more than in the previous school year when the first grade was attended by 7,401 pupils. According to the records of the Ministry of Interior and Public Administration – Department for Internal Administrative Affairs, 99.1% of the school age children were enrolled in the school year 2011/2012. Their data also show that there are 7,508<sup>38</sup> school age children to be enrolled in the school year 2011/2012.

97. Progressive increase in the number of pupils in the period from the 2004/2005 school year until the 2007/2008 school year was also the result of gradual involvement of schools in the reform process – nine year elementary education, which is why the two generations enrolled in the first class at the same time (six year old and seven year old children).

98. The average number of pupils in one class in the school year 2011/2012 is 22.88. The average number of pupils per teacher in this school year is 14. However, it is necessary to emphasise that the ratio between the number of pupils and the number of teachers varies from one city to another, ranging from 18.5 pupils (in Budva) to 4.4 pupils per teacher (in Šavnik).

99. Persons older than 15 years of age who did not complete elementary education may attain it in accordance with the adult education curriculum. Elementary school (ES) “Radoje Čizmović” - Nikšić, ES “Marko Miljanov” - Podgorica and Workers’ University in

<sup>37</sup> Law on Elementary Education, Official Gazette of RMNE 64/2, 49/07, Official Gazette of MNE 45/10

<sup>38</sup> Data of the Ministry of Interior and Public Administration – Department for Internal Administrative Affairs

Podgorica hold the licence granted by the Ministry of Education and Sports to organise elementary education of adults.

100. Twelve elementary schools in Montenegro implement elementary education curriculum in Albanian. These are the schools in the following municipalities: Bar (1), Plav (2), Podgorica (4), Rožaje (1) and Ulcinj (4). In the school year 2010/2011, teaching in Albanian was organized for 3,076 pupils, which is 4.3% of the total number of children in regular elementary schools, of whom girls accounted for 48.5 %. The total number of classes in these schools is 173; the average number of children per class is 17.8. The study programme for teachers in Albanian was launched in the school year 2004/2005. So far, 35 pupils graduated from it. This programme includes 80% of teaching in Albanian and 20% in Montenegrin.

101. The number of RE children included in elementary education has increased over the past decade. In the school year 2011/2012, there were 1,582 RE pupils in elementary schools in Montenegro. The Strategy for Improving the Position of RE Population in Montenegro envisages 10% annual increase in the enrolment of these children in pre-school institutions and the enrolment of all these children in elementary school.

102. Children and the young with special learning needs<sup>39</sup> receive their education in three ways: in the regular classes of regular schools (as the first option), in special classes of regular schools (including joint participation in extra-curricular activities of the school, and joint teaching of some subjects with their peers) and in the institutions for pupils with developmental disorders (when that is in the only option and in the best interest of the child).

103. A significant number of strategic documents aimed towards the development of educational system has been prepared (national qualifications framework, vocational education, career orientation, per capita financing of education, organising curriculum modules and evaluation of qualifications based on credits etc.). Activities are implemented under the Law on National Qualifications Framework with the aim of establishing national qualifications framework and developing qualifications based on learning outcomes.

104. The total number of pupils in secondary schools in the school year 2010/2011 was 31,914, while 10,410 of them were the pupils attending the general programme secondary school. External graduation exam was taken by 2,520 pupils of the general programme secondary school. External vocational exam was taken by 3,427 pupils of vocational schools who are educated in accordance with the new curricula. Four-year education was completed by 6,865 pupils.

105. The total number of pupils in secondary schools in the school year 2011/2012 was 31,929. Out of that number, 10,410 were the pupils of the general programme secondary school. Four-year education was completed by 6,675 pupils, while external graduation exam was taken by 2,458 pupils of the general programme secondary school. External vocational exam was taken by 2,889 pupils of vocational schools (the new curricula).

106. The new curricula will be implemented in the school year 2012/2013 in all schools and classes. All the pupils of vocational schools educated in accordance with the four-year curricula will take external vocational exam.

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<sup>39</sup> Children with developmental disorders and disabilities

107. According to the latest population census conducted in April 2011<sup>40</sup>, in Montenegro there are 542,649 persons aged 10 and over. Of that number, 8,149 are illiterate which accounts for 1.5%. The average age of an illiterate person is 62 years.

108. See below, table on population aged 6 and over classified in accordance with school attendance by age.<sup>41</sup>

**Table 21: School attendance**

Sex	Total	No response	Not receiving education	Total number of those receiving education	Elementary school	Secondary school	Basic academic studies	Basic applied studies	Postgraduate specialist studies	Postgraduate Master studies	Doctoral studies
Total	573,915	594	435,296	138,025	69,556	32,799	22,799	5,275	2554		714
5-9	31,266		2,596	28,670	28,670						
10-14	41,371		1,204	40,167	39,572	595					
15-19	44,093	21	6,610	37,462	1,314	32,168	3,321	668			
20-24	42,816	46	25,467	17,303		36	12,628	2,872	978	780	9
25-29	45,793	59	38,567	7,167			3,844	936	725	1,529	133
30-34	44,495	56	40,922	3,517			1,647	446	411	864	149
35-39	41,879	45	39,983	1,851			793	174	211	537	136
40-44	40,496	45	39,516	935			336	109	98	282	110
45-49	43,089	40	42,510	539			150	39	74	188	88
50-54	43,613	41	43,304	268			61	26	42	95	44
55-59	41,223	34	41,074	115			26	5	13	42	29
60-64	34,196	29	34,141	26					2	12	12
65 and over	79,337	107	79,226	4							4
Not applicable	248	71	176	1						1	

### Economic indicators

109. Major economic indicators, for the period 2004 – 2012 are presented in the table below.<sup>42</sup>

**Table 22: Economic indicators**

	2004	2005	2006	2007	2008	2009	2010	2011	2012
GDP (mil €)	1,700	1,815	2,149	2,680	3,086	2,981	3,104	3,273	3,405
GDP real growth by %	4.4	4.2	8.6	10.7	6.9	-5.7	2.5	2.5	0.5
GDP per capita <sup>43</sup>	2,648	2,912	3,443	4,280	4,908	4,720	5,006	5,279	5,492

<sup>40</sup> Source: Statistical Office of Montenegro

<sup>41</sup> Source: Statistical Office of Montenegro, the 2011 population census

<sup>42</sup> Source: Ministry of Finance

	2004	2005	2006	2007	2008	2009	2010	2011	2012
GDP per capita PPP (€)	7,369	7,959	8,910	10,120	11,058	10,538	10,774	11,228	n/a
GDP per capita, PPP (% of share of the EU27 average) <sup>44</sup>	n/a	31	36	40	43	41	41	43	n/a
Average gross salary	303	326	377	497	609	643	715	722	
Average net salary	195	213	246	338	416	463	479	484	
Average age pension	150	156	168	190	250	300	309	321	
Average pension	123	129	140	159	209	253	261	273	
GINI coefficient (%) <sup>45</sup>		25.9	24.4	26.4	25.3	26.4	24.3		
Number of issued work permits	29,136	25,694	23,965	39,247	58,340	17,108	14,596	19,469	
Public spending (% of GDP)	40.6	41.5	42.3	43.2	50.4	51.1	47.2	44.65	40.1
Public finance deficit (% of GDP)	-1.3	-1.6	3.2	6.3	-0.4	-5.7	-4.9	-5.4	-2.3
Public debt (% of GDP)	40.2	38.6	32.6	27.5	29.0	38.2	40.9	45.3	50.0
VAT rates <sup>a</sup>		17% and 0%						17% 7% and 0%	
Income tax – rates	0% 15%, 19% and 23%				15%	12%			9%
Corporate tax – rates	15% 15,000€+20% of the amount of profit exceeding 100,000 €								9%

<sup>a</sup> Remarks concerning tax rates: VAT rate in 2004 and 2005 amounted to 17% and 0%, and since 2006 it amounted to 17%, 7% and 0% (VAT is accounted for and paid at the reduced rate of 7% of

<sup>43</sup> Statistical Office of Montenegro and IMF estimates for 2011 and 2012

<sup>44</sup> Source: Statistical Office of Montenegro

<sup>45</sup> Source: Statistical Office of Montenegro: Gini coefficient refers to an entire consumption (of the rich and of the poor) in society. Its values of inequality range between 0 and 1 (0 – means that everyone has the same consumption or income, and 1- means that 1 person has all the income or consumption in the society, while everyone else has zero income).

the supply of goods, services and import of products in respect of the following: basic products for human consumption, medicines, including also drugs used in veterinary medicine, orthotic and prosthetic tools, as well as medical devices which are surgically implanted in the body, textbooks and teaching aids; books, monographic and serial publications; accommodation services in hotels, motels, tourist settlements, boarding houses, camps and villas; drinking water, except for bottled water; daily and periodic press, except for the press with completely or partly advertising content; services of public transportation of passengers and their personal baggage; public hygiene services; funeral services and goods related to these services; copyright and services in the fields of education, literature and arts; copyright in the fields of science and art objects, collections and antiques referred to in the Article 45 of the Law on Value Added Tax; services charged in the form of tickets for cinema and theatre, concerts, museums, fairs, amusement parks, exhibitions, zoos and similar cultural and sport events, except for those for which exemption from VAT is prescribed; services regarding the use of sport facilities for non-profit purposes; services provided in marinas; computer equipment; fodder, fertilizer, plant protection products, reproduction seeds, planting material and breeding stock). Services of public interest are exempted from VAT payment as follows: public postal services, as well as supply of goods directly related with these deliveries; health services and care and delivery of goods including supply of human organs, blood and human milk, in accordance with the regulations governing health insurance; social security services and the supply of goods directly linked to social security services in accordance with the regulations governing social security services; services in pre-school education and in education and training of children, youth and adults, including the supply of goods and services directly linked to these activities, provided that these activities are performed in accordance with the regulations governing this field; services and deliveries of goods by nursery schools, elementary, secondary schools, universities, and by student catering and boarding institutions; services in the field of culture, including tickets for cultural events and supply of goods directly linked to those services provided by non-profit organisations in accordance with the regulations governing the field of culture; services related to sports and education in the field of sports provided by non-profit organisations (unions, associations etc.); public broadcasting services, except for services of commercial nature; religious services and supply of goods directly connected with religious services provided by religious communities in order to satisfy the needs of the faithful, in accordance with the regulations governing these organisations; services provided by non-governmental organisations established in accordance with the regulations governing activities of these organisations, unless there is a probability that such exemption would lead to distortion of competition.

Income tax rate was progressive in the period 2004-2003 equalling 0%, 15%, 19% and 23%, whereas a single tax rate of 15% has been used since 2007, in 2009 it was reduced to 12% and after that, in 2010, it was reduced down to 9%.

The Law on Amendments to the Law on Corporate Profit Tax (Official Gazette of RMNE 80/04), which has been in force since 01 January 2005, introduced a proportionate corporate tax of 9% instead of earlier progressive rates. The system of progressive rates was used until 2005 with 15% payable on profit under 100,000 €, and where the profit exceeded 100,000 € the tax was paid on the basis of a formula  $15.000 \text{ €} + 20\% \text{ on profit over } 100,000 \text{ €}$ .

### **Economic and Social Development**

110. European integration and full EU membership are strategic priorities of Montenegro. Projections of economic and social development require fulfilment of certain preconditions: ensuring significant inflow of foreign direct investments, increasing domestic savings and their activation through banking and other types of investment mechanisms and continuing the process that involves institutional and expert assistance to Montenegro (institutional and organisational, environmental and development, technical and economic assistance).

111. Economic policy of Montenegro, within the framework of an open system, defines export-oriented economy as a permanent commitment. The Export Promotion Strategy of

Montenegro prioritises tourism, manufacturing and export of products that have undergone several processing stages, as well as securing the share of credit potential of the commercial banking which is directed towards financing export transactions.

112. Spatial development of Montenegro is based on the following general principles: ensuring rational use of land and space and recognizing and using the value of landscape; implementation and consistent application of sustainable development principles in accordance with the recommendations arising from the Rio Declaration and the Millennium Declaration; all population groups are target groups of the economic and social development – socially and spatially marginalised groups will be integrated and widespread unplanned construction and illegal use of land will be prevented by developing appropriate legal instruments, improving control mechanisms and their application. The draft Law on Legalising Illegal Constructions, which is still to be given consideration by the Government, was prepared in order to prevent illegal use of land.

113. In order to prevent regional social and economic disparities in Montenegro, it is necessary to undertake special activities aimed towards the fastest possible completion of the most important tasks:

- More dynamic overall economic and social development of Montenegro is elaborated in more detail in objectives and strategies in the relevant fields.
- Reducing disparities between the levels of development of certain areas may be achieved by creating conditions for permanent and sustainable development, depending on the development resources and potential of a given area, and also by decreasing disparities between the living conditions in the areas, developing social services network in underdeveloped areas, developing and promoting entrepreneurship, developing the so-called “sustainable“ economy and building human resources, while also focusing on the development of demographically challenged areas.
- Balanced development of areas with similar or common development possibilities and/or problems (rural areas, border areas, coastal and mountain areas, protected areas and endangered areas which are foreseen to be protected, wider areas of bigger cities etc.).
- Coordination between all the management and decision-making levels, and primarily inter-sectorial harmonisation of different decisions and their compliance with regional and local development requirements, setting up development agencies to provide support to entrepreneurs and sustainable local development, as well as pursuing of already foreseen establishment of regional and local business centres for small and medium-sized enterprises.
- Institutional and organisational adjustments, constructive participation of Montenegro in Euro-Atlantic and Mediterranean cooperation and integration.

114. Balanced economic development, along with an efficient and rational spatial development, nature and biodiversity conservation, upgrade of utilities infrastructure, as well as conservation of, and increase in, cultural diversity of space (cultural heritage) should ensure minimum conditions and quality of life in all the parts of Montenegro by means of the following: channelling spatial development efforts so as to achieve maximum positive effects, ensuring rational use of space and safety of the population by compliance with the relevant planning procedures, reconciling spatial development and limitations of the space, fostering biodiversity conservation, protection and conservation of eco-systems, provision of utilities infrastructure for the existing and newly planned building land, rational management of communal waste and other types of waste, conservation of cultural diversity, development of urban and rural diversities, rational use of natural resources,



integration of Montenegro into the European region, development and industrialisation in terms of cross-border cooperation with the neighbouring countries and implementation of the existing legal provisions and spatial planning documents.

### **Regional development**

115. Montenegro is characterised by significant regional development disparities that are predominantly manifested through underdeveloped northern region and developed central and southern regions. In addition to economic difficulties, underdevelopment of the northern region also gives rise to limitations of social development (as a result of a limited access to institutions and services) and increased disparities in terms of unsustainable use of natural resources (primarily forests).

116. Even though the northern region covers somewhat more than a half of the territory of Montenegro, it is characterised by the following:

- small share of GDP and low GDP per capita;
- high unemployment rate;
- population decline – population size reduces constantly, somewhat less than one third of the population lives there;
- poverty rate significantly higher than the Montenegrin average;
- under development of the transport (and other types of) infrastructure, particularly in rural areas.

117. On the other hand, resources of the northern region are very significant, particularly in terms of agriculture (67% of arable land, 70% of livestock) and forestry (71% of timber). Moreover, it has a significant potential for the development of different types of tourism, particularly those that might contribute to the upgrade of the tourism offer and overall sustainability of the tourism sector. The southern region is also the area with the highest density in Montenegro where (together with the central region) a considerable number of inhabitants is still migrating.

118. Despite a significant decline, unemployment is still one of the critical economic concerns. In addition to economic problems, unemployment also causes significant social problems such as social exclusion, feeling of deprivation and futility etc.

119. Generating new jobs and decreasing unemployment (particularly in terms of reducing gender inequality, fostering employment of the youth and people with disabilities) are some of the critical challenges of sustainable development. Other major challenges are related to the growth in job opening (reducing occurrence of unprotected labour – black market labour or labour in grey economy zone) and, particularly, resolving unemployment issues of displaced persons, refugees and Roma as these are the population categories facing unemployment rate which is 10-20% higher than the average.

120. Basis for creating policies in the future should be an endeavour to reduce regional development disparities and improve living conditions in underdeveloped areas, predominantly by means of more intensive support to the development of the northern rural areas and optimum use of comparative advantages of these areas, in accordance with parameters defined in the Law on Regional Development of Montenegro.<sup>46</sup>

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<sup>46</sup> Official Gazette of MNE 20/2011

**Transport**

121. The transport infrastructure and organisation of the transport make large contribution in terms of activating the economic potential, while the transport sector accounts for a significant share of the national GDP.

122. Numerous problems and limitations in Montenegrin transport make it difficult for important economic sectors such as tourism, agriculture and trade to develop in a faster and more efficient manner. These primarily include specific terrain configuration, accumulated problems in respect of organisation of participants in the transport chain, financing and management and insufficient use or poor condition of the transport infrastructure.

123. General framework for creating and implementing the transport policy in Montenegro includes an endeavour to achieve good clearance with the least possible impacts on the space, while minimising negative environmental impact of the transport and increasing safety.

124. Measures to improve infrastructure predominantly focus on putting in place financial prerequisites for maintenance and construction of the new transport infrastructure funded from both, public and other available sources.

**Tourism**

125. Commitment to tourism as a driving force of the economy and new development cycle is based on the fact that Montenegro has resources that are important for tourism development and that this activity generates development of other, complementary activities such as transport, trade, banking, agriculture, construction industry etc. Such development produces a number of positive economic effects, including decrease in unemployment, increase in the standard of living of the population and contribution to the regional rural development (by keeping people in the countryside and mitigating the problem of “ageing” of the countryside by developing agriculture and types of tourism related to the countryside and agriculture – agro, eco and rural tourism).

126. Numerous infrastructural problems impede tourism development: insufficient and low quality infrastructure, inadequately resolved or unresolved wastewater and solid waste treatment and the problem concerning water and electricity supply (particularly during tourism season). In addition, the following problems, or limitations, are identified: uneven distribution of accommodation capacities, high pressure of investors on the coast and the most attractive sites, lack of the high quality staff, insufficient age and educational structures in rural areas, short season and large oscillations in the number of people staying on the coast during and out of the season (which has negative impact on the quality of life of local population).

127. A number of strategic documents aimed towards the development of different types of tourism in various geographic areas has been prepared. The Master Plan for Tourism Development, as the main strategic document, foresees considerable increase in tourist capacities. This particularly refers to the development of tourism in the Northern area.

128. Priority tasks of the National Strategy for Sustainable Development include: creating more diverse tourism offer (development of rural, agro, eco, mountain, cultural, sport tourism and other types of tourism) and integrating sustainability criteria in selection of the tourism development projects.

129. The principles of, and guidelines for, sustainable tourism development have been adopted as the framework to be used in preparation and adoption of strategic documents and plans in order to preserve cultural integrity, observe fundamental environmental principles and protect biodiversity on one hand, and to strike the best balance between economic, social and environmental requirements on the other. These principles and

guidelines originated from recommendations of the World Tourism Organization, a part of UN family (UNWTO) and they include, among other things, an assessment and management of carrying capacity of the border area, sustainability indicators etc.

### **Agriculture and rural development**

130. Agriculture is at the top of priorities of economic development of Montenegro, together with tourism and services. Agriculture accounts for around 15% of the total GDP, while it provides permanent jobs for 9% of active labour force.

131. Despite limited arable land that covers around 518,000 ha, Montenegrin agriculture is quite diverse. Moreover, an important advantage involves the fact that the land generally is not exploited and that Montenegro still uses a low level of mineral fertilisers (around ten times less than the EU average) and plant protection products, which is an excellent starting point for the development of organic agriculture. However, there is a trend involving the loss of arable land, predominantly in terms of its use for other purposes. In order for this area to develop, it is necessary to improve legislative framework, system of resource monitoring and data collection and also to meet the required EU standards.

132. Circumstances that hinder agricultural development are the following: fragmentation of holdings and farming in difficult natural conditions; in majority of cases, it is just an additional occupation which slows down modernisation and market orientation of a holding; low level of educational and technical knowledge of producers in terms of their engaging in agriculture as a business; insufficiently built infrastructure in the countryside; and underdeveloped market infrastructure.

133. Montenegro opted for the concept of sustainable agricultural development which places agriculture in a context that is significantly broader than its significance in terms of the GDP share. The starting point is a multiple role of agriculture which performs the function of sustainable rural development, environment protection and long-term sustainable management of resources, economic function, function of supporting tourism development, social, food related and national-cultural functions.

134. Priority tasks in the development of agriculture and fisheries are the following: ensuring a stable and high quality food supply by increasing competition of domestic producers, sustainable management of resources and rural development, ensuring adequate standard of living for rural population. Improvement of agriculture requires encouragement of producers in primary production to establish mutual connections, develop market infrastructure and create favourable conditions for attracting foreign investments in processing capacities and product distribution. Moreover, it is necessary to work on the development of the system for safety control of products, development of organic agriculture, promotion of specific forms of domestic products and dissemination of knowledge concerning good agricultural practice for the purpose of environment protection.

### **Energy**

135. Energy sector is critically important for the sustainable development of Montenegro from both, generation and energy consumption perspectives. The reason behind this is the fact that supply of electric power in sufficient quantities is a prerequisite of economic development and satisfactory standard of living on one hand while, on the other hand, energy generation and consumption are related with significant negative environmental impacts.

136. This field encounters the following significant problems: low level of energy efficiency, losses in electric power transmission and distribution, unfavourable structure of electric power consumption and primary energy sources (coal, oil, etc.), extremely unfavourable structure of consumers dominated by Aluminium Plant (KAP) and Steel Mill

in Nikšić, extremely high import dependency in meeting energy needs and low level of exploitation of Montenegrin energy resources, which particularly refers to the available hydro potential.

137. Addressing problems in energy sector is connected with significant difficulties. Building the new hydro power plants may cause negative environmental impact, which is why decisions on their construction need to be made on the basis of a detailed, and comprehensive environmental impact assessment. In making such decisions, one needs to give full consideration to the economic, social and environmental advantages and disadvantages of the projects concerned.

138. Montenegro has relatively significant possibilities to generate electric power in thermal power plants since exploitation reserves of coal in Pljevlja and Maoci basins are estimated at about 170 million tons. The existing limitations primarily concern the fact that combustion of fossil fuels is connected with significant local and global environmental problems.

139. Activities aimed at creating conditions for the construction of small hydro power plants are currently implemented, together with activities aiming to provide for a higher level of the use of renewable energy sources.

140. In the process of developing new energy facilities and in their exploitation Montenegro will ensure compliance with the national regulations currently in force and with the undertaken international obligations in the fields of energy, environment protection, competition etc. Moreover, the requirement that the development of new energy facilities is not to disturb integrity of protected areas, especially the ones under international protection regime, will be taken into account.

141. Priority tasks in energy sector are the following: rational electric power consumption and reduction of energy import dependency, while ensuring optimal utilisation of domestic resources and giving priority to renewable energy sources.

### **Industry**

142. The existing industrial structure is quite unfavourable from several aspects and the following ones in particular: obsolete and out-dated technology and equipment, structure of industrial capacities dominated by companies, capital structure in which fixed assets are prevailing, with continuous lack of current assets and dominance of energy-intensive producers.

143. The level of industry competition is extremely low and accumulated capital for investing in the upgrade and development projects is also missing. In such conditions, the challenges related to restructuring and upgrading industrial facilities are quite considerable.

144. Major courses of action in the industrial sector in the forthcoming period include continuation of privatisation and restructuring, creating legal conditions for liberalising market of industrial products and development of small and medium-size enterprises in industry, which should result in increased competitiveness. Particular attention should be paid to the social and other types of programmes that take care of redundant employees in the privatisation process.

145. From the perspective of sustainable development, the priority task is to improve the effects of industry on the environment.

## **B. Constitutional, political and legislative structures of the State**

### **1. Political framework**

146. Montenegro, a member state of the United Nations, Council of Europe and other international, political, economic and other associations and unions, adopted the new Constitution of Montenegro on 22 October 2007.<sup>47</sup>

147. Montenegro is an independent and sovereign state, with republican form of government. It is a civil, democratic, ecological state and the state of social justice, based on the rule of law. Bearer of sovereignty is the citizen with Montenegrin citizenship. The citizen exercises his/her powers directly and through freely elected representatives. The powers not stemming from the freely expressed will of the citizens in democratic election in accordance with the law can neither be established nor recognised.

148. Montenegro cooperates and develops friendly relationships with other states, regional and international organisations, based on the principles and rules of international law. Montenegro may accede to international organisations. Montenegro may not enter into a union with another state by which it loses its independence and full international personality.

149. The power is regulated following the principle of the division of power into the legislative, executive and judicial. The legislative power is exercised by the Parliament, the executive power by the Government and the judicial by courts. The power is limited by the Constitution and the law. The relationship between powers is based on checks and balances. Montenegro is represented by the President of Montenegro. Constitutionality and legality are protected by the Constitutional Court. Army and security services are under democratic and civil control.

### **2. Constitutional structure**

#### **Legislative power**

150. The Parliament: adopts Constitution; adopts laws; adopts other regulations and general enactments (decisions, conclusions, resolutions, declarations and recommendations); proclaims state of war and emergency; adopts the budget and final statement of the budget; adopts the national security strategy and defence strategy; adopts the development plan and spatial plan of Montenegro; decides on the deployment of units of the Army of Montenegro in international forces; regulates the state administration system; supervises Army and security services; calls for the national referendum; elects and dismisses from duty the Prime Minister and members of the Government; elects and dismisses from duty the President of the Supreme Court and President and judges of the Constitutional Court; appoints and dismisses from duty: Supreme State Prosecutor and state prosecutors, Protector of Human Rights and Freedoms; Governor of the Central Bank and members of the Council of the Central Bank of Montenegro; President and members of the Senate of the State Audit Institution and other officials stipulated by the law; decides on immunity rights; grants amnesty; ratifies international agreements; calls for public loans and decides on the credits of Montenegro; decides on the use of state property exceeding the value stipulated by the law; performs other affairs as well, stipulated by the Constitution or by the law.

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<sup>47</sup> Official Gazette of MNE1/2007

151. The Parliament consists of Members of the Parliament elected directly, on the basis of the general and equal electoral rights and by secret ballot. The Parliament has 81 Members. Term of the Parliament is four years. The term of the Parliament may cease prior to the expiry of the period for which it was elected by dissolving or reducing the term of the Parliament. If the term of the Parliament expires during the state of war or state of emergency, the term is extended for the period of up to 90 days after the end of the circumstances that have caused such state. At the proposal of the President of Montenegro, the Government or minimum 25 MPs, the Parliament may reduce duration of its term.

152. Article 79 of the Constitution of Montenegro stipulates that persons belonging to minority nations and other minority groups are guaranteed, *inter alia*, the right to authentic representation in the Parliament of Montenegro and assemblies of the local government units where they constitute a significant share of the population, in accordance with the principle of affirmative action.

153. In the last early parliamentary elections of the Members of the Parliament of Montenegro held on 29 March 2009, there were 498,305 voters registered on the electoral roll, of whom 329,819 voted.

154. The current, 24<sup>th</sup> Parliament of Montenegro, consists of 81 Members as follows:

- 36 MPs from the Democratic Socialist Party,
- 16 MPs from the Socialist People's Party,
- 9 MPs from the Social Democratic Party,
- 8 MPs from the New Serb Democracy,
- 5 MPs from the Movement for Changes,
- 3 MPs from the Bosniak Party,
- 4 MPs from Albanian parties (Democratic Union of Albanians – 1 MP, Democratic Union in Montenegro and Albanian Alternative – 1 MP, New Democratic Force – *Forca* – 1 MP, and Albanian Coalition Perspective – 1 MP).

155. There is one female MP from the Croatian Civil Initiative in the parliamentary caucus of the Democratic Socialist Party.

156. Out of 81 MPs sitting in the Parliament of Montenegro, 11 are women as follows:

- 7 women in the parliamentary caucus of the Democratic Socialist Party
- 3 women in the parliamentary caucus of the Socialist People's Party
- 1 woman in the parliamentary caucus of the Social Democratic Party.

157. In terms of percentages, women currently account for 13.58% of the Parliament of Montenegro.

### **President of Montenegro**

158. The President of Montenegro is elected on the basis of a general and equal electoral right, by direct and secret ballot. A Montenegrin citizen residing in Montenegro for minimum ten years in the past 15 years may be elected for the President of Montenegro. The Speaker of the Parliament calls for elections for the President of Montenegro. The President of Montenegro is elected for a five-year period. The same person may be elected for the President maximum two times.

159. The President of Montenegro assumes duty on the day of taking an oath before Members of the Parliament. If the term of office of the President expires during the state of

war or the state of emergency, the term of office is extended by maximum 90 days after the end of circumstances that have caused such state.

160. The President of Montenegro may not discharge any other public function.

161. Term of office of the President of Montenegro ends with the expiry of the time for which he/she has been elected, by resignation, as a result of his/her inability to discharge function of the President and by dismissal.

162. The President is held accountable for violation of the Constitution. The procedure to determine whether the President of Montenegro violated the Constitution may be initiated by the Parliament, on the basis of the motion filed by minimum 25 MPs. The motion to initiate procedure is submitted by the Parliament to the President of Montenegro for plead. The decision as to whether the Constitution has been violated or not is rendered by the Constitutional Court, and it is published and submitted to the Parliament and the President of Montenegro without any delay. The Parliament may dismiss from duty the President of Montenegro once the Constitutional Court has determined that the President violated the Constitution.

163. In the event of termination of the term of office of the President of Montenegro, until election of the new President, as well as in the event of temporary impediment of the President to discharge function, this function is discharged by the Parliament.

164. The President of Montenegro represents Montenegro in the country and abroad; commands the Army based on decisions of the Defence and Security Council; proclaims laws by a decree; calls for parliamentary elections; proposes the following to the Parliament: candidate for the Prime Minister, after consultations with the representatives of political parties represented in the Parliament; President and judges of the Constitutional Court and Protector of Human Rights and Freedoms; appoints and revokes ambassadors and heads of other diplomatic missions of Montenegro abroad at the proposal of the Government and after obtaining opinion from the Parliamentary Committee responsible for international relations; accepts letters of accreditation and revocation of foreign diplomats; awards medals and honours of Montenegro; grants amnesty; performs other tasks stipulated by the Constitution or by the law.

### **Executive power**

165. The Government manages internal and foreign policy of Montenegro; enforces laws, other regulations and general enactments; adopts decrees, decisions and other enactments for the purpose of the enforcement of laws; concludes international agreements; proposes development plan and spatial plan of Montenegro; proposes budget and final statement of the budget; proposes the national security strategy and the defence strategy; decides on recognition of states and establishment of diplomatic and consular relations with other states; proposes ambassadors and heads of other diplomatic missions of Montenegro abroad; performs other tasks stipulated by the Constitution and the law.

166. The Government consists of the Prime Minister, one or more Deputy Prime Ministers and the ministers. The Prime Minister represents the Government and manages its work.

### **Judicial power**

167. In Montenegro judicial powers are in the hand of the courts. Montenegrin courts were established in compliance with the Law on Courts (Official Gazette of RMNE 5/02, 49/04, 22/08 and 39/11) and they are independent and autonomous. Law regulates establishment of courts, their jurisdiction, organization and the way they work as well as the way proceedings before the courts are conducted.

168. Courts adjudicate on the basis of the Constitution, law and ratified and published international treaties. Establishment of martial and extraordinary courts is prohibited. Trials before courts are public and the courts adjudicate in panels of judges, unless the law requires a single-judge formation. Judicial office is permanent and judges enjoy functional immunity.

169. The courts in Montenegro are: basic courts, high courts, commercial courts, Appellate Court of Montenegro, Administrative Court of Montenegro and Supreme Court of Montenegro.

### **Basic Courts**

170. There are 15 basic courts in Montenegro. Basic courts have the jurisdiction:

171. In criminal matters :

(a) to try at first instance the cases of the criminal offences defined in the law as punishable by a fine or imprisonment of up to 10 years as principal punishment, regardless of the character, profession and position of the person against whom the proceedings are conducted and regardless of whether the offence was committed in peace, state of emergency, in the state of imminent war threat or in the state of war, unless the jurisdiction of another court is established for some of these criminal offences;

(b) to try at first instance the cases of the criminal offences defined in special legislation as falling within the jurisdiction of the basic courts;

(c) to conduct the proceedings and to decide upon requests for expunging the convictions, upon requests for termination of security measures or for termination of the legal consequences of convictions and to decide in such matters if the basic court pronounced such a sentence and/or measure;

172. In civil law matters basic courts have the jurisdiction to adjudicate at first instance:

(a) in the disputes related to property, matrimony, family, personal rights, copyrights and other matters, except in the disputes where the law provides for the jurisdiction of another court;

(b) in the disputes related to correction or reply to any information in the media and to the petitions related to violation of personal rights committed through the media;

173. In labour law cases basic courts have the jurisdiction to adjudicate at first instance in the disputes related to:

- employment;
- concluding and applying collective agreements, as well as in all disputes between employers and trade unions;
- the application of the legislation on strikes;
- election and dismissal of bodies in companies and other legal entities;

174. In other legal matters basic courts have the jurisdiction:

- to resolve at first instance non-contentious cases, unless otherwise provided by the Law on Courts;
- to resolve matters related to enforcement and disputes arising in the course of or in relation to the enforcement proceedings, unless otherwise provided for in the Law on Courts;



- to decide on recognition and enforcement of foreign judgments, except for those falling within the jurisdiction of the commercial court;
- to perform legal assistance-related activities.

175. Basic courts have the jurisdiction to decide at first instance in other matters as well unless the law stipulates the jurisdiction of another court. Basic courts also perform other duties laid down in the law.

### High Courts

176. Montenegro has two high courts (in Podgorica and in Bijelo Polje). They adjudicate in criminal proceedings for criminal offences punishable by imprisonment exceeding 10 years as principal punishment, regardless of the character, profession and the position of the person against whom the proceedings are conducted and regardless of whether the criminal offence was committed in peace, state of emergency, state of imminent war danger or in the state of war and for criminal offences of:

(a) manslaughter, rape, endangering air traffic safety, unauthorized production, possession and release into circulation of narcotic drugs, calling for violent change of constitutional order, disclosure of confidential data, causing national, racial and religious hatred, disagreements and intolerance, violation of territorial sovereignty, association for activities against Constitution, preparing acts against constitutional order and security of Montenegro, money laundering;

(b) They adjudicate in criminal proceedings for criminal offences of organized crime, regardless of the severity of the stipulated punishment;

(c) They adjudicate in criminal proceedings for criminal offences with the elements of corruption: breach of equality in business operations, abuse of monopoly position, causing bankruptcy, bankruptcy fraud, trading in influence, fraudulent balance sheet, misuse of assessment, revealing a business secret, revealing and using a stock-exchange secret, passive bribery, active bribery, misuse of office, misuse of position in business activity, fraud in conduct of official duty, misuse of authority in business operations punishable by imprisonment of eight years or more severe sentence;

(d) They adjudicate in cases of criminal offences defined by special law to fall within the jurisdiction of the high courts;

(e) They conduct procedures for establishing preconditions related to the requests for extradition of accused and convicted persons and the procedures of recognizing and enforcing foreign court decisions in criminal matters;

(f) They perform other duties defined in the law.

177. At second instance high courts decide on appeals against decisions of the basic courts.

178. Apart from adjudicating, the high courts:

- solve conflicts of jurisdiction between basic courts in their territory;
- decide about requests for expunging convictions on the basis of a court decision; decide about the requests for termination of security measures or for termination of legal consequences of convictions that include prohibition of obtaining certain right if the conviction or measure was imposed by the High Court;
- does the activities of international legal assistance in criminal matters;
- does other activities defined in the law.

179. See below, tables on sentences pronounced before basic courts and high courts.

**Table 23: Sentences**

<i>COURTS</i>		<i>2010</i>		
	Conviction	Suspended sentence	Fine	Imprisonment
Basic Courts	4981	2720 (54.61%)	600 (12.05%)	1661 (33.35%)
High Courts	787	23 (2.92%)	0	764 (97.08%)
Total	5768	2743 (47.2%)	600 (10.40%)	2425 (42.04%)

  

<i>COURTS</i>		<i>2009</i>		
	Conviction	Suspended sentence	Fine	Imprisonment
Basic Courts	7105	3981 (56.03%)	829 (11.66%)	2295 (32.30%)
High Courts	746	13 (1.47%)	0	733 (98.53%)
Total	7851	3994 (50.89%)	829 (10.55%)	3028 (38.56%)

  

<i>COURTS</i>		<i>2008</i>		
	Conviction	Suspended sentence	Fine	Imprisonment
Basic Courts	6794	4335 (63.81%)	655(9.64%)	1804 (26.55%)
High Courts	447	23 (5.16%)	2 (0.44%)	422 (94.4%)
Total	7241	4358 (60.19%)	657 (9.07%)	2226 (30.74%)

180. See below, tables on criminal offences against life and limb.

**Table 24: Criminal offences (assault)**

<i>2010</i>			
	Number of cases	Share in the total number of Solved in 2010 criminal cases	
Basic Courts	925	9.68%	600 (64.86%)
High Courts	272	31.96%	161(59.19%)
Total	1197	11.50%	761(63.57)

  

<i>2009</i>			
	Number of cases	Share in the total number of Solved in 2009 criminal cases	
Basic Courts	1 024	7.71%	703 (68.65%)
High Courts	298	26.39%	132(44.29%)
Total	1 322	9.18%	835(63.16%)

2008

	Number of cases	Share in the total number of criminal cases	Solved in 2008
Basic Courts	1523	9.65%	943 (62%)
High Courts	306	28.41%	118(38.56%)
Total	1829	10.85%	1061(58.01%)

181. See below, tables on criminal offences against property

**Table 25: Criminal offences (property)**

2010

	Number of cases	Share in the total number of criminal cases	Solved in 2010
Basic Courts	2 418	25,29%	1696 (70,14%)
High Courts	71	8,34%	51 (71,83%)
Total	2 489	23,90%	1747(70,18 %)

2009

	Number of cases	Share in the total number of criminal cases	Solved in 2009
Basic Courts	3 068	23,11%	2 284 (74,5%)
High Courts	85	7,52%	45 (53%)
Total	3 153	21, 89%	2 329(73,86%)

2008

	Number of cases	Share in the total number of criminal cases	Solved in 2008
Basic Courts	3 977	25,21%	2 439 (61,32%)
High Courts	62	5,75%	17(24,41%)
Total	4039	23,97%	2 456 (60,80%)

182. See below, tables on criminal offences against sexual freedom.

**Table 26: Criminal offences (sexual)**

2010

	Number of cases	Share in the total number of criminal cases	Solved in 2010
Basic Courts	87	0,91%	70 (80,46%)
High Courts	24	2,82%	16(66,67%)
Total	111	1,06%	86 (77,47%)

2009

	Number of cases	Share in the total number of criminal cases	Solved in 2009
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2009

criminal cases			
Basic Courts	49	0,36%	33 (67%)
High Courts	37	3,27%	23 (6,16%)
Total	86	0,6%	56 (65,11%)

2008

	Number of cases	Share in the total number of criminal cases	Solved in 2008
Basic Courts	232	1,47%	150 (64,65%)
High Courts	34	3,15%	8(23,52%)
Total	266	1,58%	158 (59,39%)

183. Trafficking in Persons (Article 444 of the Criminal Code) and Trafficking in Children for Adoption (Article 445 of the Criminal Code) – In the period from 2004 to 2011 the courts with jurisdiction processed the total number of 14 cases of trafficking in persons. By 31 December 2011, final judgments were delivered in 12 of them.

184. In 11 final judgments (27 persons) the defendants were convicted, while in 1 final judgment the defendants (4 persons) were acquitted.

185. Genital mutilation of women and acid attacks are not defined in the Criminal Code of Montenegro as separate criminal offences.

186. Maximum and average duration of detention in pre-trial procedure – Ordering detention and duration of detention during investigation (Article 177 of the Criminal Procedure Code)

- On basis of the ruling of the investigating judge, the accused person may be kept in detention at the longest one month from the day of deprivation of liberty.
- After this term has expired, the accused person may be detained only on the basis of a ruling extending the detention.
- Detention may be extended on the basis of the ruling of the panel referred to in Article 24, paragraph 7 of the Criminal Procedure Code for no longer than two months and at the motion of the State prosecutor containing a statement of reasons. An appeal against the ruling of the Panel shall be allowed but it shall not stay the enforcement of the ruling.
- If the procedure is conducted for a criminal offence punishable by imprisonment for a term of more than five years, the panel of the Supreme Court may, upon a substantiated motion of the State prosecutor, if important reasons exist, extend the detention for no longer than another three months.
- The accused person shall be released if the indictment has not been brought until the expiry of the terms referred to in paragraphs 2 and 3 of the present Code.

187. Death penalty - Criminal Code of Montenegro does not provide for death penalty. The most severe sentence the court can impose on an offender is the forty-year prison sentence.

### Commercial courts

188. There are two commercial courts in Montenegro (in Podgorica and in Bijelo Polje) which adjudicate at first instance:

(a) in the disputes between domestic and foreign companies, entrepreneurs and other legal persons performing commercial activities, arising from their commercial-law relations and in the disputes between companies, entrepreneurs and other legal persons performing commercial activities and the persons who do not perform commercial activities arising from their commercial-law relations, even if in such disputes one of the parties is a natural person, if he/she is connected with any of the parties as substantive joint litigant.

(b) in the disputes relating to registration of commercial entities as well as disputes arising from relationships governed by company law;

(c) in the disputes relating to compulsory settlement, bankruptcy and liquidation of commercial entities, regardless of the capacity of the other party or the time when the dispute was initiated, unless otherwise provided by law;

(d) in the disputes relating to copyrights and industrial property rights between parties referred to in item a) of this paragraph;

(e) in the disputes relating to rights of artists, rights concerning the multiplication, duplication and releasing for circulation of audio-visual works as well as disputes relating to computer programs and their use and transfer between the parties referred to in item a) of this paragraph;

(f) in the disputes relating to disturbance of possession between the parties referred to in item a) of this paragraph;

(g) in the disputes relating to distortion of competition, abuse of monopolistic or dominant position on the market and entering into monopolistic agreements;

(h) in the disputes relating to ships and navigation at sea and in internal waters as well as in the disputes governed by navigation law, except for disputes relating to the transport of passengers;

(i) in the disputes relating to aircraft and in the disputes governed by aviation law, except for disputes relating to the transport of passengers;

(j) in the disputes in other legal matters which the law prescribes as falling within the jurisdiction of commercial courts.

189. At first instance commercial courts:

(a) conduct the proceedings of compulsory settlement, bankruptcy and liquidation;

(b) conduct the procedure for registering companies and other entities in the court registry where the law has established their jurisdiction in such matters;

(c) decide on and conduct the proceedings for enforcement and security when the enforceable instrument has been issued by the commercial court or arbitration, or when the authentic document originates from the entities referred to in paragraph 1 item 1 of this Article;

(d) decide on and conduct proceedings for enforcement and security on board of ships and aircraft, regardless of the capacity of the parties;

(e) decide in non-contentious proceedings concerning ships and aircraft;

(f) decide on the recognition and enforcement of foreign judicial decisions rendered by commercial courts as well as of foreign arbitral awards;

190. Commercial courts also perform other duties laid down by law.

#### **Appellate Court of Montenegro**

191. The Appellate Court is established for the territory of Montenegro and its seat is in Podgorica.

The Appellate Court:

- decides on appeals against first-instance decisions of high courts, as well as on appeals against decisions of commercial courts;
- resolves conflicts of jurisdiction between: basic courts from the territories of different high courts; between basic courts and high courts; between high courts; between commercial courts;
- performs other duties laid down by law.

#### **Administrative Court of Montenegro**

192. The Administrative Court is established for the territory of Montenegro and its seat is in Podgorica.

The Administrative Court decides:

- in administrative disputes on the legality of administrative acts, and legality of other individual acts as provided by law;
- on extraordinary legal remedies against final and enforceable rulings in misdemeanour proceedings.

193. The Administrative Court also performs other duties laid down by law.

#### **Supreme Court of Montenegro**

194. The Supreme Court is the highest court in Montenegro and its seat is in Podgorica.

195. The Supreme Court Bench:

- (a) adopts legal positions of principle and legal opinions of principle;
- (b) considers issues in relation to the functioning of courts, application of laws and other regulations and exercising of judicial power and informs the Parliament thereof when it deems necessary.
- (c) adopts rules of procedure of court divisions and those of the Supreme Court Bench;
- (d) delivers opinions on candidates for the positions of the President and judges of the Supreme Court; and
- (e) also performs other duties laid down in the law.

196. The Extended Supreme Court Bench is composed of the Supreme Court Bench and the Presidents of the Appellate Court, Administrative Court and High Courts. The Supreme Court Bench adopts legal positions of principle and legal opinions of principle.

197. Legal position of principle is a ruling on a point of law of general significance to proceedings in legal matters decided by the Supreme Court and points of law that have a bearing on equality of persons before the law and respect for other rights and freedoms

guaranteed in the Constitution and international treaties. Every court may request the adoption of or amendment to a legal position of principle.

198. Legal opinion of principle is delivered in relation to a particular point of law, which has arisen from the case law of the Supreme Court or lower courts and one that has a bearing on the uniform application of the Constitution and laws in the territory of Montenegro.

199. The Supreme Court:

- (a) decides at third instance as provided by law;
- (b) decides on extraordinary legal remedies against decisions of the courts in Montenegro;
- (c) decides against decisions of its panel of judges, as provided by law;
- (d) decides on transfer of territorial jurisdiction when it is obvious that another court that has subject-matter jurisdiction will be able to conduct proceedings more efficiently or for other important reasons;
- (e) decides which court shall have territorial jurisdiction when the jurisdiction of the courts in Montenegro is not excluded, and when, in accordance with the rules on territorial jurisdiction, it is not possible to reliably determine which court has territorial jurisdiction in a particular legal matter;
- (f) resolves conflicts of jurisdiction between different types of courts in the territory of Montenegro, except when the jurisdiction of another court has been established;
- (g) Performs other duties laid down by law.

200. In matters relating to the transfer of territorial jurisdiction, designation of the court having territorial jurisdiction and conflict of jurisdiction, the Supreme Court decides in a panel of three judges without conducting a hearing.

### **Judicial Council**

201. Judicial Council is an independent and autonomous authority that secures independence and autonomy of courts and judges. It is established by the Law on Judicial Council ("Official Gazette of MNE" 13/08 and 39/11).

202. Constitution defines the following responsibilities of the Judicial Council:

- to elect and dismiss from duty judges, presidents of courts and lay judges
- to establish cessation of judicial duty
- to determine the number of judges and lay judges in a court
- to deliberate on the activity report of the court, applications and complaints regarding the work of courts and take a standpoint with regard to them
- to decide on the immunity of judges
- to propose to the Government the amount of funds for the work of courts
- to perform other duties stipulated by the law.

203. In addition to the provisions of the Constitution the issues related to the Judicial Council are regulated in the Law on Judicial Council which stipulates the manner of election and termination of the term of office of the Judicial Council, the organization and method of operation of the Judicial Council, the procedure for the election of judges and lay

judges, the procedure for determining the termination of judicial office, the disciplinary liability and dismissal of judges and lay judges. Thus, the Judicial Council:

- discusses complaints against work of judges;
- decides on disciplinary liability of judges;
- provides opinions on draft legislation in the field of judiciary;
- ensures the application, maintenance and uniformity of the Judicial Information System as pertaining to the courts;
- provides for the training of holders of judicial office in cooperation with the Prosecutorial Council;
- keeps records on judges;
- discusses complaints filed by judges and takes positions regarding threats to their independence and autonomy;
- proposes guiding measures for determining the necessary number of judges and other court officials and employees;
- establishes the methodology for preparing a report on the work of the courts and annual work schedules;
- performs other duties as laid down in the law.

204. According to Article 127 of the Constitution of Montenegro, the Judicial Council is composed of the President and nine members. The President of the Judicial Council is the President of the Supreme Court, while the members of the Judicial Council are: the four judges elected and dismissed by the Conference of judges, the two Members of Parliament elected and dismissed by the Parliament from amongst the parliamentary majority and opposition, and two eminent lawyers appointed and dismissed by the President of Montenegro and Minister of Justice.

205. Judges and presidents of courts are elected and appointed by the Judicial Council. Presidents of courts are not allowed to be members of the Judicial Council.

206. Constitutional Court protects constitutionality and legality. It decides on:

- a. compliance of the laws with the Constitution and ratified and published international treaties;
- compliance of other pieces of legislation and general enactments with the Constitution and law;
- constitutional complaints filed due to violation of human rights and freedoms guaranteed by the Constitution, after all effective legal remedies have been exhausted;
- whether the President of Montenegro violated the Constitution;
- conflicts of jurisdiction between courts and other state authorities, between state authorities and bodies of the local self-government units and between bodies of the local self-government units;
- prohibition of work of a political party or an NGO;
- election disputes and disputes related to the referendums that are not within the jurisdiction of other courts;
- compliance with the Constitution of the measures and actions of the state authorities undertaken in the state of war and emergency;



Constitutional Court also performs other duties laid down in the Constitution.

207. Constitutional Court has seven judges. Constitutional Court judges are elected for the term of nine years. President of the Constitutional Court is elected from amongst the judges for the term of three years. The person enjoying reputation of a renowned legal expert, with minimum 15 years of experience in this profession may be elected to the position of a Constitutional Court judge. The President and the judge of the Constitutional Court are not allowed to discharge duties of a Member of the Parliament or other public duties or professionally perform any other activity.

208. If in the course of the procedure for assessing compliance with the Constitution and the law the piece of legislation ceased to be in force and the consequences of its application have not been removed, the Constitutional Court has to establish if that piece of legislation was in compliance with the Constitution or with the law at the time when it was in force. The Constitutional Court monitors constitutionality and legality and informs the Parliament on the occurrences of the lack of compliance with the Constitution and the law.

209. Everyone can file an initiative for starting the procedure of assessing compliance with the Constitution and the law. It can be initiated by the court, other state authority, local self-government authority or five Members of the Parliament. Constitutional Court itself can initiate the procedure for assessing compliance with the constitution and the law. In the course of that procedure Constitutional Court can order the suspension of enforcement of the individual enactment or action undertaken on the basis of the law, other piece of legislation or general enactments the compliance of which with the Constitution and the law it is assessing, if their enforcement might result in irreparable damaging consequences. The Constitutional Courts adopts its decision by majority of votes of all judges and its decisions are published. They are binding and enforceable. If needed, the Government ensures enforcement the Constitutional Court decision.

210. See below, table on total number of judges.

**Table 27: Judges**

<i>Year</i>	<i>2011</i>	<i>2010</i>	<i>2009</i>	<i>2008</i>
No. of judges	264	260	254	244

211. See below, table on number of unsolved cases (backlog) by judge on various levels of the judicial system

**Table 28: Unsolved cases**

<i>Year</i>	<i>2010</i>			<i>2009</i>			<i>2008</i>		
<i>Courts</i>	Total	Solved	Unsolved	Total	Solved	Unsolved	Total	Solved	Unsolved
Basic Courts	675.45	452.04	223	727.28	495	231.85	775.18	505.08	270.10
High courts	368.45	343.05	25.40	552.85	484.40	68.44	586.78	384.65	202.13
Commercial Courts	1346.21	1272.04	74.17	1015.91	943.83	76.95	975.75	909.79	65.95
Appellate court	245.73	226.73	19	312.25	251	61.25	236.22	182.11	54.11
Administrative Court	564.67	429.11	135.56	440.55	298	142.55	450.87	248.37	202.50
Supreme Court	157.56	151.89	5.67	279	268	11	209.84	209.69	0.15

Year	2010			2009			2008		
Courts	Total	Solved	Unsolved	Total	Solved	Unsolved	Total	Solved	Unsolved
TOTAL	639.24	490.16	149.29	889.47	791.53	433.51	873.77	741.28	467.15

212. See below, table on amount of public spending allocated for judiciary.

**Table 29: Public spending for judiciary**

2011	2010	2009	2008	2007
19,289,958.37 €	19,943,897.96 €	20,080,914.22 €	19,779,371.38 €	13,586,548.48 €

### State Prosecuting Authority

213. State Prosecuting Authority is the an integral and independent public authority that performs the tasks of prosecuting perpetrators of criminal offences and other punishable offences prosecuted *ex officio*. The tasks of the State Prosecuting Authority are done by state prosecutors with one or several deputies. Supreme State Prosecutor and state prosecutors are proposed by the Prosecutorial Council and appointed by the Parliament for the term of office of five years. Prosecutorial Council ensures autonomy of the State Prosecuting Authority and state prosecutors. Prosecutorial Council is elected and dismissed by the Parliament. Elections, term of office, competencies, organization and the way of work of the Prosecutorial Council are regulated in the law. Deputy state prosecutors have permanent office, with the exception of the deputies of basic state prosecutors who are appointed for the term of office of three years, after which, if they are re-elected, their office becomes permanent.

214. Tasks of the State Prosecuting Authority are done in Montenegro by the Supreme State Prosecution Authority, two high prosecution authorities and 13 basic prosecution authorities. The Supreme Prosecuting Authority has established the Division for Combating Organized Crime, Corruption, Terrorism and War Crimes managed by the Special Prosecutor.

215. Supreme State Prosecuting Authority is established for the territory of Montenegro, with the head office in Podgorica. Supreme State Prosecuting Authority proceeds before Supreme Court of Montenegro, Appellate Court of Montenegro, Administrative Court of Montenegro, other courts and other state authorities, and as required in the law. According to the law, Supreme State Prosecuting Authority files motions for protection of legality. Supreme State Prosecuting Authority also performs other tasks not defined as falling within the jurisdiction of the high and basic state prosecuting authorities.

216. The Parliament adopted the Decision on the election of members of the Prosecutorial Council according to the Constitution and the Law on State Prosecuting Authority. The Prosecutorial Council is composed of the president and ten members. Supreme State prosecutor is the president of the Prosecutorial Council.

### State administration

217. State administration performs the tasks of administration within the rights and duties of Montenegro, on the basis of the Constitution, law, other regulations and general enactments. Tasks of the state administration are performed by the ministries but also by the local self-government or any other legal person where such tasks are transferred or conferred on them.

### Local self-government

218. Constitution guarantees the right to local self-government as one of the fundamental rights and provides legal framework for development and independence of the local self-government. Thus, according to the Constitution, local self-government decides directly and through freely elected representatives, while the right to local self-government includes the right of citizens and local self-government bodies to regulate and manage certain public and other affairs on the basis of their own responsibility and in the interest of the local population.

219. The forms of exercising local self-government are: the Capital, Historic Capital and municipality. There are 19 municipalities in Montenegro. Municipalities have their own property, their budget and they are financed by their own revenues and by the funds allocated by the state. Municipal bodies are its Assembly and its President. Municipalities have the capacity of a legal person and they are independent in performing the tasks from within their competences. The Government can dissolve municipal assembly or dismiss the president of municipality only if in the period of more than six months they do not do the tasks from within their competences.

220. All municipalities in Montenegro (including the Capital and the Historic Capital) are associated in the Union of Municipalities, which is the national association of the local communities of Montenegro.

221. The mission of the Union of Municipalities is to provide services to its members, to represent their interests and to cooperate with the state bodies, other national associations and international organizations and in that way to become a genuine representative of a decentralized, depoliticized and democratic local self-government capable to do its tasks and affairs legally, efficiently and rationally in the interest of its citizens.

222. The Union of Municipalities has the following goals:

- to develop local democracy and achieve common interests of the local self-government units;
- to improve the organization, operation and functioning of the local self-government;
- to create conditions for developing various forms of cooperation in all the fields of work of the local communities of Montenegro;
- to cooperate with international organizations and local self-government associations.

223. Activities of the Union are:

- developing and improving the legal system and the position of the local self-government; improving and developing communal and housing areas, areas of physical planning, construction, transportation, road maintenance, commercial and non-commercial activities and other fields from within the competences of the local self-government,
- working on the cooperation of the local communities for the purpose of achieving jointly the interests of the local population,
- representing the common interests of the local communities before state bodies and other national and international entities,
- cooperating with international organizations for local self-government and other international organizations,
- providing support in the process of exploring the appropriate forms of citizen participation in the local self-government affairs,

- participating in public consultation processes and giving opinions and proposals regarding the laws and other legislation pieces regulating the relations of importance for the local population,
- working on international cooperation with the local communities of other countries and regions,
- developing and improving education and culture of citizens and local self-government officers,
- publishing,
- performing other activities of interest for the members of the Union.

### **Army**

224. The Army defends independence, sovereignty and state territory of Montenegro, in accordance with the principles of international law regarding the use of force. The Army is subject to democratic and civil control. Members of the Army may be part of the international forces.

225. Defence and Security Council: adopts the decisions regarding the command over the Army of Montenegro; analyses and assesses the security situation in Montenegro and decides to take adequate measures; appoints, promotes and discharges from duty the Army officers; proposes to the Parliament proclamation of the state of war and state of emergency; proposes the use of Army in international forces; performs other duties stipulated by the Constitution and the law.

226. Defence and Security Council of Montenegro is composed of the President of Montenegro, the Speaker of the Parliament and the Prime Minister. The President of Montenegro acts as the President of the Defence and Security Council.

### **3. Media**

227. Constitution of Montenegro stipulates that: „everyone shall have the right to freedom of expression by speech, writing, picture or in any other manner. The right to freedom of expression may be limited only by the right of others to dignity, reputation and honour and if it threatens public morality or the security of Montenegro.”

228. Article 49 of Montenegrin Constitution guarantees „the freedom of press and other forms of public information” and “the right to establish newspapers and other public information media, without approval, by registration with the competent authority”. It also guarantees “the right to a response and the right to a correction of any untrue, incomplete or incorrectly conveyed information that violates a person’s right or interest and the right to compensation of damage caused by the publication of untruthful data or information.”

229. Article 50 of Montenegrin Constitution reads „There shall be no censorship in Montenegro. The competent court may prevent dissemination of information and ideas via the public media only if so required in order to prevent invitation to forcible destruction of the order defined by the Constitution; preservation of territorial integrity of Montenegro; prevention of propagating war or incitement to violence or committing of criminal offences; prevention of propagating racial, national and religious hatred or discrimination. “

230. Montenegrin media legislation includes: Media Law (Official Gazette of MNE 59/02), Law on Public Broadcasting Services of Montenegro (Official Gazette of MNE 79/08), Law on Electronic Media (Official Gazette of MNE 46/10) and the Law on Ratification of the European Convention on Trans-Frontier Television (Official Gazette of MNE 01/08):

- Media Law, as the system law in the field of media, regulates the preconditions for exercising the freedom of expression and the freedom of the media. Article 1 of the Media Law reads: “Media shall be free in the Republic of Montenegro. Censorship of media is prohibited in the Republic of Montenegro. The Republic of Montenegro shall provide and guarantee freedom of information at the level of the standards as contained in the international documents on human rights and freedoms (the United Nations, the OSCE, the Council of Europe, the European Union). This Law shall be interpreted and implemented in compliance with the principles contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms and shall be governed by the case law of the European Court of Human Rights.”

- Law on Public Broadcasting Services of Montenegro governs the activity of the public broadcasting services, Radio and Television of Montenegro, in line with the law and international standards and rules in this field.

- Law on Electronic Media governs the rights, obligations, and responsibilities of legal and physical entities performing the activity of production and providing of audio-visual media services (hereinafter referred to as „AVM service“), and services of electronic publications via electronic communication networks; it regulates competences, status, and financing sources of the Agency for Electronic Media; it regulates prevention of illegal media concentration; encourages media pluralism; and governs other issues of importance for providing of AVM service, in accordance with international conventions and standards.

#### 4. Political parties

231. Law on Political Parties of 2011<sup>48</sup> regulates the conditions and the manner of establishing, organizing, registration, association and cessation of work of political parties (Article 1). In terms of this Law, the party is an organization of freely and voluntarily associated citizens for the purposes of achieving political goals through democratic and peaceful means (Article 2). The Law prohibits operation of the party the goals of which are aimed at: violent change in the constitutional order, damaging the territorial integrity of Montenegro, violation of human rights and freedoms guaranteed in the Constitution, causing and instigating national, religious and other type of hatred or intolerance.

232. In Montenegro a party can be established by at least 200 citizens with the right to vote in Montenegro who voluntarily sign the statement on establishing the party. Holders of judicial and prosecutorial offices, protectors of human rights and freedoms, and professional members of police and army cannot be founders of any political party (Article 7)

233. No party can function as a party in Montenegro if not registered according to this Law or if its head office is not located in Montenegro (Article 5).

234. To start operating, parties have to be entered into the Register of political parties kept by the Ministry of Interior, which adopts enactments to regulate the contents and the manner of keeping the register (Article 14).

235. Every party can associate in broader political alliances in the country and abroad, whereby it keeps its status of a legal entity. A party can be merged with other party or parties that are recorded in the register in order to create a new party and in that case the party loses its status of a legal entity and the party created by merging of two or more parties becomes a new legal entity.

236. A party ceases to exist after it is deleted from the Register.

<sup>48</sup> Official Gazette of MNE 59/2011

237. Relevant authority will adopt the decision to delete a party from the Register in the following situations: if Constitutional Court decides that the enactments of such a party are not in compliance with the Constitution and the Law; if the court with jurisdiction decides that the name, abbreviated name or symbols of a party are not substantially different from the name, abbreviated name or symbols of the party that used to be registered in the Register; if the court with jurisdiction decides that the name, abbreviated name or symbols of the party are identical or similar to the names or symbols of institutions; to ensure that the party can merge with other party or parties. Immediately after the party is deleted from the register the relevant authority informs the party thereof.

238. Relevant authority will initiate the procedure for deleting the party from the Register in the following situations: if the body designated in the Articles of Association adopts the decision on the cessation of work of the party; if it establishes that the entering of the party into the Register was done on the basis of data that are not true; if it establishes that, within a year from the expiry of the term of office defined in the Articles of Association, the party has not yet elected its statutory bodies; if the party alone or in a coalition has not participated in parliamentary or local elections for six years. The relevant authority will inform the party of the beginning of the procedure of deletion from the Register and provide it with a fifteen-day deadline to make its statement in relation to that.

239. Decision on deletion of the party from the Register is published in the “Official Gazette of MNE” (Article 20).

240. Financing of political parties is regulated in the Law on Political Party Financing<sup>49</sup>.

241. This Law regulates the manner of obtaining and securing funds for the regular operation and election campaigns of political parties, as well as the manner and control of financing and financial operations of political parties, with the view to achieving legality and public nature of their operations.

242. Political parties can secure funds for their regular operation and election campaigns from public and private sources in compliance with this Law.

243. In May 2012 the Register of political parties in Montenegro had 37 political parties registered.

## **5. Nongovernmental organizations**

244. The basic legislative framework for the operation of nongovernmental organizations was established in the Constitution of Montenegro and the Law on Non-governmental Organizations of 2011.<sup>50</sup>

245. Constitution of Montenegro guarantees freedom of political, trade union and other association and action, without approval, by registration with the competent authority.

246. Law on Non-governmental Organizations governs the manner of establishing, registering and deleting from the Register, status, bodies, financing and other issues of importance for the operation and action of non-governmental associations and non-governmental foundations (Article 1). Associations are established by at least three persons, one of whom has to have permanent or temporary residence or a registered office in Montenegro, while a foundation can be established by one or several persons regardless of whether they have permanent or temporary residence or a registered office in Montenegro or not. Non-governmental organization has the capacity of a legal person that it obtains on

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<sup>49</sup> Official Gazette of MNE 42/2011

<sup>50</sup> Official Gazette of MNE 39/11

the day on which it is entered in the Register, which is within the competences of the Ministry of Interior. Entering of non-governmental organizations into the Register is done on the basis of an application for registration, which has to be submitted with the Memorandum of Association, minutes of the foundation assembly and Articles of Association. Application for registration of a foundation is submitted with the Memorandum of Association or testament if the foundation is established by a testament, minutes of the foundation assembly of the steering committee and Articles of Association.

247. The Law allows operation of foreign non-governmental organizations in Montenegro for the purpose of achieving the goals and interests that are not prohibited by the Constitution and the law. Foreign non-governmental organizations have to register their branches in Montenegro with the Ministry of Interior.

248. The Law on Nongovernmental Organizations stipulates that the state will provide non-governmental organizations with the material support, allocating the budget funds for that purpose, while the distribution of the allocated funds is to be done by the Commission established by the Government.

249. The annual Law on Budget of Montenegro provides the funds for projects and programmes in the fields that are of public interest and that are implemented by non-governmental organizations. Such areas, in terms of this Law, are: social and health protection, poverty reduction, protection of persons with disabilities, social care for children and the young, support to the elderly, protection and promotion of human and minority rights, rule of law, development of civil society and volunteerism, Euro-Atlantic and European Integration of Montenegro, institutional and extra-institutional education, science, arts, culture, technical culture, environment protection, agriculture and rural development, sustainable development, consumer protection, gender equality, combating corruption and organized crime, dealing with diseases of addiction as well as other areas of public interest defined in the special law.

250. This Law also provides for the conditions under which NGOs can directly perform commercial activities.

251. Many issues, specific features and exceptions important for operation of non-governmental organizations are regulated in other pieces of legislation: Law on Corporate Profit Tax<sup>51</sup>, Law on Value Added Tax<sup>52</sup>, Law on Property Transfer Tax,<sup>53</sup> Decree on the procedure and the manner of implementing public consultations in the process of developing legislation,<sup>54</sup> Decree on Criteria for identifying the beneficiaries and the manner of distribution of the part of the revenues from the games of chance<sup>55</sup>, Decision on establishment of the Council for Cooperation of the Government of Montenegro and the Non-governmental Organizations<sup>56</sup>.

252. In May 2006 the Government of Montenegro adopted the document Bases for Cooperation of the Government of Montenegro and Nongovernmental Organizations and on 2 January 2009 it adopted the Strategy for Cooperation of the Government of Montenegro and Nongovernmental Organizations.

<sup>51</sup> Official Gazette of RMNE No. 65/2001, 12/2002,80/2004 and Official Gazette of MNE No. 40/2008, 86/2009, and 14/2012

<sup>52</sup> Official Gazette of RMNE No. 65/2001, 12/2002,38/2002, 72/2002,21/2003, 76/2005, 4/2006 and Official Gazette of MNE No. 16/2007

<sup>53</sup> Official Gazette of RMNE No 69/2003 and Official Gazette of MNE No. 17/2007

<sup>54</sup> Official Gazette of MNE No. 12/2012 of 24/02/2012

<sup>55</sup> Official Gazette of MNE No. 42/2011 of 15/08/2011

<sup>56</sup> Official Gazette of MNE No. 28/2010 of 14/05/2010

253. In December 2011 the Government of Montenegro adopted the Decree on the manner and procedure for implementing cooperation of the state administration bodies and non-governmental organizations<sup>57</sup>, which governs the manner and procedure for cooperation of the ministries and other state administration bodies with non-governmental organizations, as well as the criteria and the procedure of the election of the representatives of nongovernmental organizations into the working groups and other bodies formed by the state bodies.

254. This Decree stipulates that the state administration bodies in the process of developing and adopting enactments defined in the annual work plan (strategy and analysis of the situation in certain fields, drafts and proposals of laws, other legislation pieces and secondary legislation that govern the manner of exercising rights and freedoms of citizens) ensure consultations with nongovernmental organizations through meetings (seminars, round tables, workshops etc.) and through written and electronic communication (submitting suggestions, proposals, comments).

255. Secretariat General of the Government includes the Office for Cooperation with Nongovernmental Organizations which has been established as an institutional mechanism for cooperation with the NGO sector.

256. In November 2010 the Government adopted the Decision on appointing the members to the Council for Cooperation of the Government of Montenegro with Nongovernmental Organisations. This was only a continuation of the improvements of the institutional framework for cooperation with the NGOs, which is one of the key goals defined in the Action Plan for the implementation of the Strategy for Cooperation of the Government of Montenegro and Nongovernmental organizations.

257. The Council is composed of 12 representatives of the Government and 12 representatives of the civil sector – members from the civil sector are proposed by the non-governmental organizations, while representatives of the Government are appointed upon the proposal of the line ministries. The procedure for proposing the candidates for the membership in the Council was conducted by the Office of the Government of Montenegro for Cooperation with NGOs.

258. NGO sector in Montenegro is rather active in the field of promoting and achieving public interests, as well as in the affirmation of the overall position of the civil society, primarily through their participation in the development of laws and strategic documents of the Government, as well as through the interest they show for the work of the Government bodies. Nongovernmental organizations prepared or participated in the preparation of a number of laws, strategic documents, including *inter alia*: Public Procurement Law, National Security Agency Law, Law on Free Access to Information, Law on Police, Law on Conflict of Interests, Witness Protection Law, Law on Safety in Traffic, National Strategy of Sustainable Development, Defence Strategy, Strategy for Fighting Corruption and Organized Crime with the Action Plan, Strategy for Development and for Reduction of Poverty, Strategy of Social and Children Care, Strategy for development of the system of social protection of the elderly, Strategy for integration of persons with disabilities etc. Representatives of the nongovernmental sector also participate in the teams that monitor implementation of strategic documents.

259. However, there is still a significant room and the need for improving the cooperation between the Government and state administration bodies on one and non-governmental

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<sup>57</sup> Sl. list CG br. 07/2012



organizations on the other side, particularly through ensuring a higher degree of transparency of work in the process of preparing and implementing public policies<sup>58</sup>.

260. According to the data from the Register that is kept in the Ministry of Interior of Montenegro, in March 2012 there were 5 856 non-governmental organizations and 103 foundations registered in Montenegro.

## **II. General framework for the protection and promotion of human rights**

### **A. Accepting international norms for human rights**

261. Article 9 of the Constitution of Montenegro stipulates that the ratified and published international treaties and generally accepted rules of international law make an integral part of the internal legal order, have the supremacy over the national legislation and are applied directly where they regulate relations differently than Montenegrin national legislation.

262. Montenegro is a party to the key international instruments in the field of human rights, including: the International Covenant on Civil and Political Rights (with the optional protocol), Optional Protocol to the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), (including the Optional Protocol), International Convention on Elimination of all Forms of Racial Discriminations (ICERD), Convention on Elimination of all Forms of Discrimination Against Women (CEDAW) (including the Optional Protocol), Convention on the Right of the Child, Optional Protocol to the Convention on the Right of the Child on Involvement of Children in Armed Conflicts, Second Optional Protocol to the Convention on the Right of the Child on the Sale of Children, Child Prostitution and Child Pornography, Convention on the Rights of Persons with Disabilities (including the Optional Protocol), Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, International Convention on the Suppression and Punishment of the Crimes of Apartheid, International Convention Against Apartheid in Sports.

263. Depositing the instruments on succession, Montenegro became signatory to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Montenegro was also one of the first countries to sign the International Convention for the Protection of all Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

264. Montenegro is the party to 69 ILO conventions.

265. Montenegro has ratified a large number of the Council of Europe conventions that refer to human and minority rights including the most important – European Convention for the Protection of Human Rights and Fundamental Freedoms, Framework Convention for the Protection of National Minorities and European Charter on Regional or Minority Languages.

266. List of international-law instruments in the field of protection and promotion of human rights and freedoms of Montenegro is in the Annex II of this document.

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<sup>58</sup> Source: Strategy for Cooperation of the Government and Non-governmental organizations

## **B. Legal framework for the protection of human rights on the national level**

### **1. Human rights according to the Constitution of Montenegro**

267. In Montenegro human rights and freedoms are protected in the Constitution of Montenegro, in the laws and other regulations adopted in line with the Constitution, with the ensuring of the highest degree of compliance with international standards in the field of implementation and protection of human rights and freedoms.

268. Human rights and freedoms are defined in a separate chapter of the Constitution of Montenegro (Articles 17 – 81). These provisions, *inter alia*, refer to:

- freedom and equality of citizens before the law, regardless of any particularity or personal feature;
- inviolability of freedoms and rights;
- right to legal remedy;
- right to legal assistance;
- right to local self-government etc.

269. Constitution of Montenegro guarantees the following personal rights and freedoms:

- right to life (Article 26). Death penalty is prohibited in Montenegro. The Amendments to the Criminal Code of Montenegro adopted in 2002 abolished death penalty and replaced it with the 40-year prison sentence; by that time death penalty used to be pronounced for the gravest crimes.
- right in terms of application of biology and medicine (Article 27)
- right to protection of dignity and inviolability of person (Article 28)
- right to personal freedom (refers to deprivation of liberty, detention) Article 29 – 30
- right to respect of human personality and dignity in the criminal or other procedure, in case of deprivation or limitation of liberty and during the execution of prison sentence (Article 31)
- right to a fair and public trial (Article 32)
- right to application of the principle of legality or the right that no one can be punished for an act that, prior to being committed, was not stipulated in the law as punishable, nor may be pronounced a punishment which was not envisaged for that act (article 33)
- right to application of a more lenient law or the right that criminal and other punishable acts are identified and punishments for them pronounced according to the law that was in force at the time when the act was committed, unless the new law is more lenient for the perpetrator (Article 34)
- right to the assumption of innocence or the right that everyone is deemed innocent until his/her guilt is established in a final court decision (Article 35)
- *ne bis in idem* – a citizen cannot be tried two times for the same punishable act (Article 36)
- right of citizen to defence, particularly to be informed in the language he understands about the charges against him/her (Article 37)

- right of citizen to compensation of damage if he/she was deprived of liberty or convicted without any grounds (Article 38)
- right of citizen to the freedom of movement and residence (Article 39)
- right of citizen to inviolability of home, confidentiality of correspondence and protection of personal data (Articles 40 – 43)
- right to asylum (Article 44).

270. Political freedoms and rights :

- active and passive electoral right of citizens who are 18 years of the age or above (Article 45)
- right to the freedom of thought, conscience and religion (Article 46)
- right to the freedom of expression (Article 47)
- right to the objection of conscience or that no one is obliged, contrary to his/her own religion or conviction to fulfil a military or other duty involving the use of arms (Article 48)
- right of citizens to the freedom of press, to response and to correction of published data or information that are not true, as well as to the compensation of damage caused by publishing of untrue data or information (Article 49)
- censorship is prohibited and the court with jurisdiction can prohibit dissemination of information and ideas through the public media only in precisely defined cases: in order to prevent invitation to forcible destruction of the order defined in the Constitution; to preserve territorial integrity of Montenegro; to prevent propagation of war or incitement to violence or crime; to prevent propagating of racial, national and religious hatred or discrimination (Article 50)
- right of access to information held by state authorities or organizations that perform public authorities (Article 51)
- right to free and peaceful assembly, without any approval, with a prior notice to the competent authority (Article 52)
- right of political, trade union and any other association and action, without any approval, with the registration with the competent authority (Article 53)
- political organization in state authorities is prohibited (Article 55)
- the operation of political and other organizations aimed at forceful destruction of the constitutional order, infringement of the territorial integrity of Montenegro, violation of guaranteed freedoms and rights or causing national, racial, religious and other hatred and intolerance is prohibited (Article 55)
- right to recourse to international organizations for the protection of rights and freedoms guaranteed in the Constitution (Article 56)
- right to recourse to the state authority or organization performing public authorities and right to receive a response (Article 57).

271. Economic, social and cultural freedoms and rights :

- right to property (Article 58)
- right to entrepreneurship (Article 59)
- right to succession (Article 60)

- right of foreign nationals to hold property according to the law (Article 61)
- right to work, to free choice of occupation and employment, to fair and humane working conditions and to protection during unemployment (Article 62)
- forced labour is prohibited (Article 63)
- rights of employed persons to adequate salary, limited working hours, paid vacation, health and safety at work; special protection is afforded to the young, women and disabled persons (Article 64)
- employed persons have the right to strike. This right can be limited only to employees in the Army, police, state authorities and public service in order to protect public interest and in accordance with the law (Article 66)
- employed persons ensure for themselves and for the members of their families all forms of social and health insurance; particular protection is afforded for the persons with disabilities (Articles 67 – 69)
- the state protects consumers (Article 70)
- special protection is afforded to family, mother and child (Articles 71 – 74)
- right to education for everyone under the same conditions (Article 75)
- right to freedom of creation (Article 76)
- the state encourages and supports development of education, science, culture, arts, sports, physical and technical culture; the state protects scientific, cultural, arts and historical values and natural and cultural heritage (Articles 77, 78).

## **2. Special – minority rights**

272. Constitution of Montenegro attaches strong attention to the protection of the identity of minority nations and other minority national communities (Article 79), who are guaranteed rights and freedoms that they can use individually or together with others: the rights to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities; the right to choose, use and publicly post national symbols and to celebrate national holidays; the right to use their own language and alphabet in private, public and official use; the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities; the right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings also in the language of minority nations and other minority national communities; the right to establish educational, cultural and religious associations, with the material support of the state; the right to write and use their own name and surname in their own language and alphabet in the official documents; the right, in the areas with significant share in total population, to have traditional local terms, names of streets and settlements, as well as topographic signs written also in the language of minority nations and other minority national communities; the right to authentic representation in the Parliament of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action; the right to proportionate representation in public services, state authorities and local self-government bodies; the right to information in their own language; the right to establish and maintain contacts with the citizens and associations outside of Montenegro, with whom they have common national and ethnic background, cultural and historic heritage, as well as religious beliefs; the right to establish councils for the protection and improvement of special rights.

273. Constitution also stipulates prohibition of assimilation of the members of minority nations and other minority national communities (Article 80).

### **3. Limitations of human rights and freedoms**

274. Constitution of Montenegro also provides for limitations to human rights and freedoms (Article 24) stipulating that guaranteed human rights and freedoms may be limited only by the law, within the scope permitted by the Constitution, to the extent necessary in an open and democratic society to satisfy the purpose for which the limitation has been permitted. Limitations may not be introduced for purposes other than the ones for which they were prescribed.

275. In its Article 25 the Constitution of Montenegro stipulates that during the proclaimed state of war or emergency, the exercise of certain human rights and liberties may be limited, to the necessary extent to the extent necessary. The limitations shall not be introduced on the grounds of sex, nationality, race, religion, language, ethnic or social origin, political or other beliefs, financial standing or any other personal feature. There shall be no limitations imposed on the rights to: life, legal remedy and legal aid; dignity of and respect for a person; fair and public trial and the principle of legality; presumption of innocence; defense; compensation of damage for illegal or ungrounded deprivation of liberty and ungrounded conviction; freedom of thought, conscience and religion; entry into marriage.

276. There shall be no abolishment of the prohibition on: inflicting or encouraging hatred or intolerance; discrimination; more than one trial or conviction for the same criminal offence (*ne bis in idem*); forced assimilation.

277. Measures of limitation may be in effect at the most for the period of duration of the state of war or emergency.

### **4. Human Rights Protection Mechanisms in Montenegro**

278. The jurisdiction for ensuring the respect and protection of human rights in Montenegro belongs to the courts that adjudicate on the basis of the Constitution, law and ratified and published international treaties; to the public prosecuting authority that does the tasks of prosecuting criminal offences and other punishable acts prosecuted *ex officio*; to the Ministry of Justice and Human Rights (that, *inter alia*, does the tasks related to the control of enforcement of prison sentences and other criminal sanctions in the cases provided for in the law, extradition, international legal assistance, pardon, conditional release, agreements on damages for ungrounded deprivation of liberty, termination of prison sentence), as well as to the Institution for Enforcement of Criminal Sanctions where criminal sanctions are enforced.

279. If a citizen considers that his/her human right guaranteed in international or national law has been threatened or violated he/she has an undisturbed access to the courts before which he can obtain protection of his/her rights in a criminal procedure or a civil procedure (as a witness, victim, private prosecutor or plaintiff) or in an administrative dispute (dispute that can be initiated against the administrative or other enactment adopted at second instance).

280. Criminal procedure is regulated in the Criminal Procedure Code; civil procedure is regulated in the Civil Procedure Code, while administrative dispute (adjudicated before Administrative Court and Supreme Court) is regulated in the Law on Administrative Dispute.

281. Apart from the provisions that refer to the court (Part III – Organization of Powers) Constitution of Montenegro of 2007 also contains provisions that refer to the Constitutional Court (Part V – Constitutionality and Legality).

282. In relation to this, the Constitution provides for the jurisdiction of the Constitutional Court that decides on constitutional complaints due to the violation of human rights and freedoms guaranteed by the Constitution, after all the effective legal remedies have been exhausted.

283. Since international law in Montenegro has supremacy over the national law, the courts directly apply relevant international conventions that regulate issues of human rights. The parties can invoke these conventions in their submissions. For example: the party can rely on the European Convention for the Protection of Human Rights and Fundamental Freedoms if he/she wants to exclude the public from the main hearing in the criminal procedure.

284. Right to a legal remedy – Constitution of Montenegro stipulates that everyone has the right to legal remedy against the ruling on his/her right or legally based interest. Protection of the right to a fair trial is ensured through the opportunity to lodge regular and extraordinary legal remedies against court rulings. Since the failure to respect the above rights guaranteed in the Constitution, which are aspects of the right to a fair trial, constitutes a grave violation of the procedural provisions, legal remedies against such failure can be lodged to the courts.

285. In the criminal and civil cases the regular legal remedy against first instance court rulings is an appeal. Appeal can be lodged against first instance judgments within the deadline required in the law. Such an appeal is decided upon by a directly higher court instance that can uphold, reverse or quash the judgment and order a retrial.

286. It is also possible to start an administrative dispute before Administrative Court requesting assessment of legality of an administrative enactment or any other individual enactment if such possibility is stipulated in the law. Administrative dispute can be initiated by a natural or legal person if he/she considers that an administrative or any other enactment violated any of his/her rights or interests based on the law.

287. It is possible to lodge extraordinary legal remedies against the final court ruling. Such extraordinary legal remedies have to be stipulated in the laws that regulate the procedure in which the party is trying to exercise some of his/her human rights.

288. According to the Criminal Procedure Code, extraordinary legal remedies are: re-opening of the criminal procedure, extraordinary mitigation of punishment and request for protection of legality.

289. Civil procedure law envisaged the following extraordinary legal remedies: review, request for protection of legality and re-opening of the procedure.

290. The Law on Administrative Dispute stipulates that extraordinary legal remedies that can be lodged against the final ruling of the Administrative Court are: the request for extraordinary re-examination of the court ruling and request for reopening of the procedure.

291. As for the system of compensation of damages upon a claim of the authorized person, every claim for damages that is related to a committed criminal offence will be considered if in such a way the procedure would not be significantly delayed.

292. Claim for damages in criminal procedure can be submitted by the person authorized to submit such a claim in civil procedure.

293. Claim for damages can refer to compensation of damages, return of things or annulment of certain legal transaction.

294. The court decides upon claims for damages.

295. In the judgment convicting the defendant the court can award damages to the authorized person fully or in part and instruct the authorized person to initiate civil procedure for the rest of the claim.

296. If the facts established in the criminal procedure do not provide reliable basis either for full or partial award and establishing of the facts would lead to significant delays in the procedure the court instructs the authorized person to start a civil procedure for the entire claim for damages.

297. Where the court acquits the defendant or dismisses the charges or suspends the criminal procedure, the authorized person is instructed to initiate civil procedure to claim damages.

298. Where the court declares lack of jurisdiction for the criminal procedure the authorized person will be instructed to submit the claim for damages within the criminal procedure that will be started or continued by the court with jurisdiction.

299. In the course of the criminal procedure or after the termination thereof, regardless of the ruling the court adopted, the court can instruct the victim or the person that submitted the claim for damages and the defendant to try to solve their relations that are the subject matter of such a claim in the mediation procedure according to the law regulating the rules of mediation procedure. To exercise his/her rights the party can also submit a claim for compensation of pecuniary/non-pecuniary damage to the court with jurisdiction that will decide upon such a claim in a civil procedure.

300. Law on Cooperation with the International Criminal Court<sup>59</sup> governs cooperation of Montenegrin state authorities with the International Criminal Court and fulfilling of other obligations in compliance with the Rome Statute of the International Criminal Court, as well as other issues related to prosecution of perpetrators of criminal offences referred to in Article 5 of the Statute – criminal offences against humanity and other values protected in international law that are related to violations of international humanitarian law defined in the Criminal Code of Montenegro.

301. Citizens of Montenegro can also lodge applications to the European Court of Human Rights provided that they have exhausted all effective legal remedies on the national level, which means that they have used the constitutional complaint as the highest legal remedy.

302. In this respect the amendments to the Law on Civil Procedure introduced Article 428a which reads: “When the European Court of Human Rights establishes violation of a human right or fundamental freedom guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, a party may, within three months from the final judgment of the European Court of Human Rights, file a request for the reversal of the judgment violating that right or fundamental freedom before the court in the Republic of Montenegro which tried in the first instance procedure in which the decision violating a human right or fundamental freedom was rendered if the violation may not be removed in any other way than by reopening the procedure.”

303. The procedure referred to in paragraph 1 of Article 428a is conducted with the proper application of provisions on reopening of the procedure.

304. In December 2011 there were about 920 applications against Montenegro that were pending before the Court, 30 of them in the stage of main hearing. About 300 applications

<sup>59</sup> Official Gazette of MNE No. 53/09)

lodged against the state of Montenegro were rejected by the Court or declared inadmissible because international-law procedural requirements were not met. The Court delivered 6 judgments establishing at least one violation of the Convention.

## **C. Framework for promotion of human rights on the national level**

### **1. Institutions responsible for human rights protection**

305. Montenegrin legal system ensures high level of protection of human rights and fundamental freedoms. Basic provisions of Montenegrin Constitution provide legal basis for promotion, strengthening and improvement of protection of fundamental human rights and freedoms and confirm the obligation of Montenegro to comply with international standards in that context.

306. Almost a half (68 out of 158) Articles of Montenegrin Constitution refer to human rights and freedoms, which confirms their importance.

307. Legal framework in the field of promoting and protecting human rights and freedoms is in the continuous process of improvement and adjustment to the highest international standards. The major legislation pieces currently in force in this field include: Law on Minority Rights and Freedoms, Law on Social and Child Care, Law on Prohibition of Discrimination, Law on Protector of Human Rights and Freedoms (Ombudsman), Law on Health Care, Law on Gender Equality, Labour Law, Media Law, Law on Non-Governmental Organizations, Criminal Code, Criminal Procedure Code, etc.

308. With the view to ensuring protection of and respect for human rights the Government of Montenegro adopted several strategic documents and action plans for their implementation, the most important being: Strategy of Minority Policy (2008-2012); Strategy for Improvement of the Position of RE population in Montenegro (2008-2012), and the new Strategy for Improvement of the Position of Roma and Egyptians in Montenegro 2012 – 2016, which was adopted in 2012; National Action Plan for the “Decade of inclusion of Roma 2005-2012”; Action Plan for Achieving Gender Equality (2008-2012); Strategy for Development of the System of Social and Child Care in Montenegro (2008-2012); Strategy for Integration of Persons with Disabilities in Montenegro (2008-2016); Strategy of Inclusive Education in Montenegro (2008-2012); Strategy of the Reform of Judiciary (2007-2012).

### **2. National institutions for the protection and implementation of human rights in Montenegro**

309. Ministry for Minority Rights<sup>60</sup> - As a product of democratic progress and fundamental aspirations contained in the »Agreement on the Minimum Principles for Development of Democratic Infrastructure in Montenegro« from 1997, already a year after its adoption after the extraordinary parliamentary elections and establishment of new Government, the *Ministry for Protection of the Rights of National and Ethnic Groups* was established. In the new organizational structure of the Government of Montenegro in 2006, this ministry got a new name – *Ministry for Protection of Human and Minority Rights*, which reflected the new competences this Ministry got at the time – monitoring and protection of minority rights that are not within the competences of other bodies. After the establishment of the

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<sup>60</sup> Decision of the Government in Montenegro in 2012 transformed the Ministry for Human and Minority Rights into the Ministry of Minority Rights and the part of the former ministry in charge of human rights was merged with the Ministry of Justice, so today it functions as the Ministry of Justice and Human Rights.



Government in December 2010 and in line with the Decree on organization and work of the state administration bodies, this ministry functioned under the name *Ministry for Human and Minority Rights*, being responsible for monitoring, exploring and protecting minority rights in line with the Constitution of Montenegro and international documents in this field and in line with democratic goals Montenegro strives to.

310. In line with the commitments of the Government of Montenegro and having in mind the importance of gender equality and the improvement of the position of Roma in Montenegrin society, there are separate departments established in the Ministry – Department for Gender Equality Affairs and Department for Improvement and Protection of RE population.

311. By the Decision of the Government of Montenegro from 2012 the Ministry of Human and Minority Rights was transformed into the Ministry for Minority Rights and the part responsible for human rights was merged with the Ministry of Justice so that today it functions as the Ministry of Justice and Human Rights.

312. In line with the programme orientation defined earlier, the Ministry for Minority Rights continued to work actively on the implementation of its basic strategic projections. The basis of that strategy is a full integration of minority nations into the social life with the further preservation and development of their national and cultural specificity and improvement of their rights and freedoms defined in legislation. This is being done through a constant communication of the Ministry with the representatives of all minority nations, political subjects, non-governmental organizations and institutions and through a partnership relations with the relevant international organizations and institutions dealing with the issues of protection of human and minority rights.

313. Minority Councils – With the view to implementing the Law on Minority Rights and Freedoms, the Ministry for Human and Minority Rights adopted secondary legislation which was a necessary legal precondition for constituting minority councils: Rules for the first elections of the minority councils, Instruction on the unified templates for conducting the election of the minority council members (»Official Gazette of the RMNE 46/07) and the Rulebook on the template and the manner of keeping records of the minority council (»Official Gazette of MNE 37/08). In line with the above legal instruments the following councils organized electronic meetings of their assemblies and elected their members: Croatian council, Bosniak council, Roma council, Muslim council, Albanian council and Serbian council. The constitutive meetings of the councils took place and the councils were registered with the Ministry for Human and Minority Rights, obtaining thus the capacity of legal person. Since August 2008 the operation of the councils has been financed through this ministry. In 2010 the councils were financed by the total amount of 278,533.80 Euro (each council was allocated the same amount of 46,422.30 Euro).

314. Fund for Minorities – Upon the proposal of the Government of Montenegro, in February 2008 the Parliament adopted the Decision on establishing the Fund for Minorities<sup>61</sup>. The Fund was established to support the activities important for preservation and development of national or ethnic specific features of minority nations and other minority national communities and their members in the field of national, ethnic, cultural, linguistic and religious identity.

315. In 2010 the Fund for Minorities had 993,169.64 Euro at its disposal.

316. Centre for Preservation and Development of Minority Cultures - Recognizing the importance of inter-culturality and Montenegrin cultural diversity, the Ministry for Human

<sup>61</sup> Official Gazette of MNE, No. 13/08

and Minority Rights undertook activities important for functioning of the Centre for Preservation and Development of Minority Cultures. After the Proposal of Amendments to the Decision on Establishing the Centre for Preservation and Development of Minority Cultures was adopted, four members of the Steering Committee were appointed and the adequate premises for the operation of the Fund were ensured. It was followed by ensuring of the necessary technical and material means for its operation and the election of the Director. The Centre has three employees: director, business secretary and program organizer. The budget for 2010 amounted to 184,000 Euro, out of which 120,000 Euro were allocated for programme activities.

317. Human Rights and Freedoms Committee – The Parliament of Montenegro established a permanent working body – Human Rights and Freedoms Committee, which has the following duties: to discuss proposals of laws and other pieces of legislation and general enactments and other issues that are related to: freedoms and rights of men and citizens, with a particular focus on minority rights, implementation of ratified international instruments related to exercising, protection and improvement of these rights; to monitor implementation of documents, measures and activities for the improvement of national, ethnic and other equality, particularly in the field of education, health services, information, social policy, employment, entrepreneurship, decision making process etc; to participate in the preparation and development of documents and harmonization of legislation in this field with the standards in European legislation; to cooperate with the appropriate working bodies of other parliaments and with non-governmental organizations active in this field.

318. Protector of Human Rights and Freedoms – As an autonomous and independent institution, the Protector of Human Rights and Freedoms protects human rights and freedoms guaranteed in the Constitution, law, ratified international treaties on human rights and generally accepted rules on international law, if they are violated by an enactment, act or omission of state bodies, local self-government bodies and public services and other holders of public authorities.

319. It is the body where citizens can easily, without any particular formalities and costs, ask for a quick and efficient intervention. This body can also function at its own initiative.

320. The procedure before the Protector is confidential and no one that files a complaint or participates in any other way in the procedure conducted by the Protector can be held liable for that or brought into an inconvenient situation because of that. The Protector informs the Parliament and the public about his findings, positions and opinions, contributing in such a way to the opening and transparency of public administration, other public services and bodies to the Parliament, Government, public and citizens.

321. The Protector is the national mechanism for prevention of torture and other inhuman treatment, as well as the national mechanism for protection from discrimination.

322. Non-governmental organizations – A number of high quality and very active non-governmental associations and organizations deal with the issues of protection of human rights and improvement of the position of minority communities in Montenegrin society.

323. Raising awareness on human rights among the officials in the Government and other professionals – examples: According to the reform policy of the Government of Montenegro and through the measures defined in the national strategic documents, the Ministry of Justice and Human Rights continuously implements activities in the field of improving the system of enforcement of criminal sanctions in Montenegro. The reforms tackle all aspects of the system – from the amendments to the legislative framework to the strengthening of the mechanism for exercising and protection of the rights of persons deprived of liberty. With a clear commitment to achieve the highest level of respect for and protection of human rights of persons deprived of liberty, further development of the prison

system of Montenegro is based on the continuous harmonization with international standards or creation of necessary preconditions for implementing such standards.

324. In September 2011 the Government of Montenegro adopted the Action Plan for the improvement of the prison system. One of the goals defined in the Action Plan is to improve conditions in prisons. The measures for achieving this goal include the activities of preparation, definition and implementation of the curriculum for training of officers in the Institution for Enforcement of Criminal Sanctions in line with the conventions and recommendations of the Council of Europe, European Prison Rules and the standards of the European Committee for Prevention of Torture and Inhuman and Degrading Treatment and Punishment (CPT), focused on respect for human rights and freedoms of the prison population and organizing of a consistent training of prison officers related to the respect of human rights and activities aimed at rehabilitation of convicts.

325. Montenegrin judges regularly attend trainings organized by the Judicial Training Centre that operates under the umbrella of the Supreme Court.

326. Annual programme for continuous training includes a separate field of training about European law, with a particular focus on the European Convention on Human Rights. The goals of the judicial training in this field include: acquisition and improvement of knowledge about the European Convention on Human Rights for judges that hold the office for less than three years; improvement of knowledge about the European Convention on Human Rights and the case law of the European Court of Human Rights for judges and successful implementation and improvement of practical use of knowledge in this field.

327. Lecturers in these trainings are eminent national legal experts and practitioners as well as lecturers from the Council of Europe Member States and experts from the European Court of Human Rights and the Council of Europe.

328. The trainings are organized in form of lectures, seminars, regional conferences, study visits to the relevant institutions in the states with the best case law, as well as to international institutions and organizations like European Court of Human Rights and Council of Europe.

329. As for the European Law, Montenegrin judges attend continuous education on the European Union law, with the particular goal to acquire knowledge in the field of EU law, to learn about organization, functioning, jurisdiction and the case law of the Court of Justice in Luxembourg and to be trained for the application of the Stabilization and Association Agreement between EU and Montenegro.

330. The lecturers in this field are eminent national legal experts and practitioners, experts from the EU Member States and EU membership candidate states, professors/lecturers in the field of EU law and experts from the Court of Justice in Luxembourg.

331. Montenegrin judiciary attaches a great importance to international cooperation, which means that judges participate in regional and international workshops, seminars and conferences dealing with human rights.

332. Development cooperation and support are important segments of the comprehensive reform of the judicial system. There is a large number of programmes and projects implemented in this field and their goals are not only related to the specific fields of the functioning of the judicial system, but also to protection of human rights (right to a fair trial, right to a legal remedy, right to a trial within a reasonable time, etc.). Implementation of numerous projects in cooperation with the agencies of the United Nations, European Commission and many other international agencies and donors rises the awareness about the protection of fundamental rights and freedoms and the need to respect them in practice.

#### **D. Reporting process at the national level**

333. Montenegro does not have any separate coordinating structure at the national level for preparing the report. Instead of that, the Government, depending on the nature of the treaty at issue, puts in charge the relevant ministry to work on the coordination of preparation, presentation and defence of individual treaties before the relevant UN committees and subsequently on the implementation of the specific conclusions.

334. Every report has to be adopted by the Government of Montenegro before it is sent to the relevant UN committee.

335. As a party to all fundamental international human rights treaties incorporated in the national legislation, Montenegro regularly submits periodic reports to the relevant UN committees and puts efforts in implementing the recommendations after they are examined.

336. Montenegro went through the first cycle of the UPR mechanism reporting process in 2008. The work at the national level started soon after establishment of the mechanism and definition of guidelines for its development.

337. Montenegro got the total of 20 recommendations in the first cycle, which it accepted.

338. As for the process after the defence of the Report, in other words the process of implementation of the recommendations, Montenegro did not establish any separate institutional mechanism for that. The recommendations are approached from a functional side, which means that they are treated as a kind of guidelines for activities and programmes that the Government is to implement with the view to eliminating the identified problems for protection and improvement of human rights.

339. This Common Core Document was composed by the Working Group coordinated by the Ministry of Foreign Affairs and European Integration of Montenegro. The Working Group consisted of representatives of the relevant ministries of the Government of Montenegro<sup>62</sup>, and relevant bodies of the Parliament of Montenegro, Supreme Court, Supreme Public Prosecution Authority and Ombudsman. National Statistics Office of Montenegro provided the Working Group with support in the field of statistics. Each of these bodies appointed a contact person directly in charge of working on the development of the Document.

340. Montenegro submitted the previous Common Core Document in 2005 as a part of the State Union Serbia and Montenegro.

341. Much of the data contained in the Core Document have been updated since they are based on the Census that was conducted in 2011.

### **III. Information on prevention of discrimination and on equality and effective legal remedies**

342. Constitution of Montenegro guarantees equal protection of rights and freedoms to all persons in Montenegro (Article 8). It stipulates prohibition of any direct or indirect discrimination on any grounds.

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<sup>62</sup> Ministry of Justice, Ministry of Education and Science, Ministry of Labour and Social Welfare, Ministry for Human and Minority Rights, Ministry of Economy, Ministry of Sustainable Development and Tourism, Ministry of Culture, Ministry of Health

343. Prohibition of discrimination refers, *inter alia*, to prohibition of discrimination in access to courts by foreign physical and legal persons in comparison to nationals. The constitution also guarantees the right of every person to equal protection of his/her rights and freedoms. Rights and freedoms are exercised on the basis of the Constitution and ratified international treaties. Everyone is equal before the law, regardless of any particular feature or personal characteristic. Everyone has the right to apply to international organizations in order to protect his/her rights and freedoms guaranteed in the Constitution. Equal access of national and foreign legal and physical persons before courts means also equality regarding the right to legal aid guaranteed by the Constitution to every person.

344. Criminal Code of Montenegro stipulates a number of criminal offences against freedoms and rights of man and citizen, including the ones important in the context of this report: Violation of the Right to Use of Language and Alphabet, Violation of Equality, Violation of Freedom of Expression of National or Ethnic Affiliation, Violation of Freedom of Worship and Practice of Religious Ceremonies. In the corpus of criminal offences against humanity and other values protected by international law, the Criminal Code provides for the criminal offence of Racial and Other Discrimination.

345. The description of the criminal offence of Racial and Other Discrimination (Article 443) reads that anyone who on grounds of a difference in race, colour of skin, national affiliation or ethnic origin, or some other personal characteristic violates fundamental human rights and freedoms guaranteed by generally recognized rules of international law and international treaties ratified by Montenegro shall be punished by a prison term from six months to five years. This punishment also applies to anyone who persecutes organizations or individuals for their efforts to ensure equality of people. Anyone who spreads ideas of superiority of one race over another, or promotes racial hatred, or incites to racial and other discrimination shall be punished by a prison term from three months to three years.

346. Continuous training of holders of judicial offices about international human rights instruments, national legislation and the case law regulating this field; availability of publications and judgments of the European Court of Human Rights (ECHR), as well as the started interactive dialogue of the Supreme Court of Montenegro with the ECHR contribute to the high quality adjudication in the cases of criminal offences against freedoms and rights of persons and citizens defined in the Title Fifteen of the Criminal Code of Montenegro, and for the criminal offence of Causing National, Racial and Religious Hatred defined in Article 370 of the Criminal Code.

347. Having in mind the vulnerable groups – victims and witnesses of war crimes, trafficking in persons and domestic violence and starting from the specific features of the judicial system and its functioning, the Supreme Court established the Service for support to witnesses/victims in the criminal offences of trafficking in persons, trafficking in children for adoption and domestic violence that will function as a support to all courts. The Service for Support to witnesses/victims in war crimes has been established for the High Courts in Podgorica and Bijelo Polje and their Specialized Divisions for Organized Crime, Corruption, Terrorism and War Crimes

348. Brochures with information have been published and distributed in order to support witnesses/victims and to inform the public on the existing services. These brochures that can be found on the web sites of all relevant courts in the state contain general information on the rights and duties of witnesses/victims with a particular focus on minors, their security, the manner of functioning of the Service for support and the contact details of the authorized persons that will provide support to them in the court.