



Convention on the Rights of the Child

Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Initial report of States parties due in 2009

Montenegro *

[25 May 2009]

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I. Introduction

1. Montenegro renewed its independence based on the Referendum held on May 21, 2006. After that, the Parliament of Montenegro adopted the Declaration of Independence on June 3, 2006, by which it proclaimed Montenegro as an independent and sovereign state which assumed its international obligations. In accordance with the Declaration and Decision on independence, Montenegro started a comprehensive process of succession to international treaties of which it was a member in earlier state arrangements (Yugoslavia, State Union of Serbia and Montenegro).

2. As prescribed by the Constitutional Charter, as the highest legal act of the former State Union of Serbia and Montenegro, the member state which makes a decision on exiting the State Union renounces all the rights to political and legal continuity of the federation. Montenegro, after renewing its independence and acceptance into all relevant international organizations, submitted a succession statement for the set of the United Nations Conventions which are deposited with the Secretary-General, of which Serbian and Montenegro was a member on October 23, 2006. Also, the succession statement for conventions of the Council of Europe, International Labour Organization and other organizations was deposited.

3. Article 9 of the Constitution prescribes the principle of supremacy of the international law: “Confirmed and published international treaties and generally accepted rules of international law are an integral part of internal legal system, they have priority over national legislation and are immediately applied when they determine relations differently from internal legislation.”

4. Montenegro accepted the Convention on the Rights of the Child and both Optional Protocols to it. By accepting the Convention, it

assumed the obligation to, in accordance with article 44 of the Convention, submit to the Committee on the Rights of the Child periodical reports on the manner of its implementation and observance of the guaranteed rights of the child. In that respect, the Initial report on implementation of the Convention on the Rights of the Child for the period 2006–2008 has been prepared.

5. This report contains the analysis of the legal system of Montenegro in the area of protection of children from involvement in armed conflicts. The report contains information on the basis of which the Committee on the Rights of the Child will have an insight into the implementation of the Optional Protocol in the mentioned period.

6. The Ministry of Health, Labour and Social Welfare, as the line ministry competent for monitoring the implementation of the Convention on the Rights of the Child and the Optional Protocol to the Convention on the involvement of children in armed conflict for the period 2006–2008, coordinated the preparation and created this initial report. Competent state bodies (Ministry of Health, Labour and Social Welfare, Ministry of Defence, Ministry of Justice, Ministry of Home Affairs and Public Administration, Ministry of Education and Science, Ministry of Foreign Affairs) were involved.

7. Montenegro will, pursuant to article 44, paragraph 6, of the Convention, make this report available to the public.

II. General information

A. Definition of the child in the legislation of Montenegro

8. The law does not define the term “child”. In most cases, for a person who has attained 18 years, the term minor is used. In criminal legislation, a child is a person up to 14 years, and a minor is a person from 14 to 18 years.

9. According to the Family Law, the age of majority is reached with 18 years attained. Full business capacity is attained with majority or entering into marriage prior to majority with a court decision (article 11).

10. A child who has attained 15 years and who is capable of reasoning may decide which high school he/she will attend (article 65).

11. A child who has attained 14 years may undertake legal affairs with previous or subsequent consent of the parents, i.e. consent of the guardianship body when immovable property or movable property of higher value from the property of the child should be appropriated or charged. A child who has attained 15 years may undertake legal affairs by which he/she manages and disposes of his/her income or property that he/she acquired through his/her own work (article 66).

12. According to the Labour Law, a labour contract may be concluded by a person if the person has attained at least 15 years and has general health capacity (article 16). The labour contract may be concluded with a person under 18, with a written consent of a parent, adoptive parent or guardian, if such work does not jeopardize his/her health, morals and education, or if such work is not prohibited by law. A person under 18 may conclude a contract only on the basis of a competent medical body which attests to his/her capacity for performance of the duties for which he/she concludes a labour contract and provided that such duties are not harmful to his/her health (article 17).

13. The Criminal code prescribes that criminal sanctions can not be imposed (article 80) on a person who at the time of committing an unlawful act determined in law as a criminal offence if he/she has not attained fourteen years (child). A minor who at the time of committing a criminal offence has attained fourteen but not sixteen years (junior minor) may be pronounced only corrective measures. A minor who at the time of committing the criminal offence attained sixteen, but not eighteen (senior minor) can be pronounced corrective measures, and exceptionally the punishment of juvenile imprisonment. A minor may be pronounced security measures as well, under conditions prescribed by law. A minor cannot be pronounced suspended sentence, and judicial admonition (article 81).

14. Similar is prescribed by the Law on Administrative Offences. The infraction procedure (article 41) cannot be conducted against a minor who at the time of committing an administrative offence has not attained 14 years (child). A minor who at the time of committing an administrative offence attained 14 but not 16 years can be pronounced corrective measures only. A minor who at the time of committing an administrative offence attained 16 but not 18 (senior minor) may be pronounced a corrective measure or sentence. A security measure may be exceptionally pronounced to a minor in addition to a corrective measure, if it is necessary due to the nature of the administrative offence (article 42).

15. According to the Law on army, military obligation arises in the beginning of the calendar year in which the conscript attains 18 years (article 173). All Montenegrin nationals are subject to military obligation during emergency or war state. In time of peace, conscripts may, on a voluntary principle, be invited for a training for the purpose of acquiring the knowledge necessary for performing duty in war, lasting not longer than 15 days in the course of a calendar year (article 172).

B. Readiness of the Optional Protocol in Montenegro

16. Obligations of Montenegro when it comes to human rights, democracy and rule of law represent one of the priorities of its foreign policy, so Montenegro undertook all the necessary legislative and other measures in accordance with the provisions of international law in the area of protection of children, in particular, on the plan of prohibiting recruitment of minors.

17. When it comes to the position of the Optional Protocol in the internal legal system of Montenegro (Serbia and Montenegro, FR Yugoslavia), in accordance with article 10 of the Constitutional charter of the State Union of Serbia and Montenegro (“Official Gazette of SMN” No 1/03), which was proclaimed and entered into force on February 4, 2003, and ceased to be in force on June 3, 2006 by adoption of the decision of the Parliament of the Republic of Montenegro on the proclamation of independence of the Republic of Montenegro, provisions of international treaties on human and minority rights and civil freedoms which were valid in the territory of Serbia and Montenegro were immediately implemented/applied.

18. In accordance with article 9 of the Constitution of Montenegro, confirmed and published international treaties and generally accepted rules of international law are an integral part of internal legal system of Montenegro, have priority over national legislation and are immediately implemented when they regulate relations differently from national legislation. That means that international treaties, concluded, confirmed and published in accordance with the Constitution and which are in force, have supremacy over laws in the hierarchy of legal acts. Therefore, provisions of confirmed international treaties, which are not in accordance with the internal valid laws, become directly applicable by the Constitution. On the other hand, confirmed international treaties are immediately implemented in cases where there is no corresponding national regulation. Since the Optional Protocol is confirmed and entered into force, its provisions are applicable in Montenegro.

C. Implementation of the Optional Protocol in accordance with the general principles of the Convention on the Rights of the Child

Non-discrimination (Convention on the Rights of the Child, article 2)

19. The Constitution of Montenegro prescribes that every direct or indirect discrimination on any grounds is prohibited. It also provides that regulations and introduction of special measures directed at the creation of conditions for realisation of national, gender and overall equality and protection of persons who are on any grounds in an unequal position shall not be considered discrimination. Special measures may be applied only until the goals for which they were undertaken are realised (article 8). Everyone is equal before the law, regardless of any special characteristic or personal property.

20. The Law on minority rights and freedoms, article 39, paragraph 2, prohibits any direct or indirect discrimination on any grounds, on the grounds of race, colour, sex, nationality, social origin, birth or similar status, religion, political or other belief, property, culture, language, age, and psychical or physical disability.

21. The Criminal Code prohibits violation of fundamental human rights and freedoms on the grounds of difference in race, skin colour, nationality, ethnic origin or any other personal characteristic. Persecution of individuals and organizations due to their advocacy of equality of people, as well as dissemination of ideas on superiority of one race over another or propaganda of racial hatred or inciting to racial discrimination is also punishable (article 443). This Code criminalizes the violation of equality which consists in annulling or limiting rights of humans and citizens determined by the Constitution, laws or other regulations or general acts or confirmed international treaties or providing immunities or benefits on the basis of difference in nationality or ethnicity, race or religion or due to lack of that affiliation or due to differences concerning political or other belief, sex, language, education, social position, social origin, property or some other personal characteristics (article 159).

22. The labour law prohibits direct and indirect discrimination of a person seeking employment as well as of the employed, regardless of sex, birth, language, race, religion, skin colour, pregnancy, health condition, i.e. disability, nationality, marital status, family obligations, sexual orientation, political or other belief, social origin, property, membership in political or trade union organizations or any other personal property (article 5). This Law defined these discriminations in more detail. Any treatment based on any of the grounds which places a person who is seeking employment or who is employed in an unfavourable position in relation to other persons in the same or different situation shall be considered direct discrimination. Indirect discrimination, in the sense of this law, occurs when a certain provision, criterion or practice puts or would put a person seeking employment or an employed person in an unfavourable position in relation to other persons, , due to a certain characteristic, orientation or belief (article 6). These forms of discrimination are prohibited in relation to the conditions of employment and choice of candidates for the performance of certain work; conditions of work and all other rights related to labour relation; education, training and specialization; advancement in the job; and cancellation of the labour contract. Pursuant to article 10 of the Labour Law in cases of discrimination, a person seeking employment, as well as an employed person may initiate a procedure before the competent court, in accordance with the law.

23. Certain discrimination has been recorded in the living standards and education of Roma as well as when it comes to accommodation conditions and health protection of children with disabilities in the “Komanski most” institution in Podgorica, which will be discussed later.

The best interest of the child (Convention on the Protection of the Child, article 3)

24. The best interest of the child is one of the very important principles of national legislation. Family law prescribes that everyone shall act in accordance with the best interest of the child in all activities related to the child (article 5). In disputes for protection of child, and in disputes for exercise, or limitation and deprivation of parental right, the court shall always act in accordance with the best interest of the child (articles 78–87).

Right to life, survival and development (Convention on the Rights of the Child, article 6)

25. In Montenegro, the right to life, survival and development of the child involves a whole range of social, economic and other rights, and it is guaranteed in certain articles of the Constitution and a set of laws, primarily, from the area of family legislation. Starting from the protection of the undoubtedly most important human right — right to life — the Constitution of Montenegro prohibits the death penalty (article 26) and guarantees the dignity and safety of a human, and the inviolability of his/her physical and psychological integrity (article 28).

26. The protection which is provided to the children by the state is determined in the second part of the Constitution of Montenegro (Human rights and freedoms), in article 72, pg. 1 and 2: “Family enjoys special protection. Parents shall take care of the children, bring them up and educate them.”

27. When it comes to the survival and development of the child, the Family Law prescribes the obligation of the state to provide conditions for free and responsible parenthood through measures of social, health and legal protection, a system of upbringing,

education and informing, employment policy, housing and taxation policies, as well as through development of all other activities for the benefit of the family and its members. As a model of family planning, the right of every individual to freely decide on the birth of their children, the opportunities and ensure conditions for their healthy psychological and physical development in the family and society as a parent, has been prescribed.

Right to freedom of opinion and views (Convention on the Rights of the Child, article 12)

28. Freedom of opinion primarily entails the right to expression of opinion and all the persons are entitled to it, whether they have attained majority or not, and it is guaranteed in the national legal system. The Constitution of Montenegro guarantees to everyone the right to freedom of opinion and freedom of expression by speech, in written form, by picture or in other way (articles 46 and 47).

29. Also, the Constitution of Montenegro, in its second part (Human and minority rights and freedoms), in article 46, paragraph 1, determines: "Everyone is guaranteed the right to freedom of opinion, conscience and religion, as well as the right to change religion or belief and freedom to express the religion or belief through prayer, sermons, customs or ceremonies individually or with others, publicly or privately", and article 47, paragraph 1, "Everyone is entitled to freedom of expression through speech, in written form or in other manner".

30. Appreciation of opinion of the child is a legal principle which is applied in all court and administrative procedures relation to the rights, interests and welfare of the child. Family law guarantees to the child the right to express his/her opinion in different situations. As a general principle, it has been prescribed that the child who is capable of forming his/her opinion has the right to freely express that opinion (article 67). He/she has the right to timely receipt of all the notifications necessary for forming his/her opinion. The opinion of the child must be paid due attention in all issues in relation to him/her in which decisions are made on his/her rights, in accordance with the age and maturity of the child. The child who has attained 19 years can freely and directly express his/her opinion in all procedures in which decisions are made on his/her rights. The child who has attained 10 years may on his/her own or through another person or institution address a court or administrative body and request assistance in exercising his/her right to free expression of opinion.

III. Articles of the Optional Protocol

Article 1: Minimum age limit for direct involvement in hostilities

31. Pursuant to the provision of article 1 of the Optional Protocol, States Parties are obliged to raise the minimum age limit for direct involvement in hostilities to 18 years.

Measures, including legislative, administrative or other measures undertaken to ensure that members of armed forces who have not attained 18 years do not take direct part in hostilities (Guidelines)

32. In relation to these measures in Montenegro, two distinct periods can be defined: before August 30, 2006 and after. Measures which were undertaken in Montenegro up to August 30, 2006, so as to ensure that persons who had not attained 18 years do not take direct part in hostilities, when it comes to obligatory recruitment, were undertaken in such a way that these persons could not become members of the armed forces prior to attaining 18 years. Of special note is the Decision of the President of the Republic of Montenegro from August 30, 2006, by which all affairs in connection with performing recruitment obligation and obligation of serving military service of the citizens of Montenegro were halted. Also of note is the Law on Defence and Law on the Army of Montenegro, adopted on July 27, 2007 ("Official Gazette of the RMN", No. 47/07), which entered into force on August 15, 2007. This law prescribed that military obligation is an honour, right and duty of Montenegrin nationals to participate in preparations for defence and be engaged/used only in conditions of war or emergency situations in accordance with the law (article 7 of the Law on Defence), i.e. that all Montenegrin nationals are subject to military obligation during a state of war or emergency. In times of peace, conscripts may be invited to a voluntary training for the purpose of obtaining necessary knowledge for performing duty in war in the course of at least 15 days during the calendar year. The military obligation arises in the beginning of the calendar year in which the conscript attains 18 years and ceases when he/she attains 60 (man), or 55 (woman) years, or if he/she is estimated to be incompetent for military service or when his/her Montenegrin nationality is terminated.

33. Through the adoption of the mentioned legislation the former concept of general (total) military obligation was altered (abolished). Namely, legislation does not entail necessary serving of military service, i.e. service in army reserve of the Army of Montenegro. Also, the Law on the Army of Montenegro prescribes publishing of public announcement to which citizens of Montenegro who want to undergo training for performing military duties in war would apply.

Meaning of the term "direct involvement" in war conflicts in the legislation and practice of Montenegro (Guidelines)

34. This issue is not of importance for Montenegro, considering what has been stated in item 30 of this report, as well as the fact that public administration bodies of Montenegro competent for deciding on rights and obligations of citizens in the area of defence when making decisions on these rights and obligations undertake measures for the purpose of determining the age of the conscript (using central registry documentation, ID cards and other documents).

Measures undertaken to prevent engaging or retaining the member of armed forces who have not yet attained 18 years in an area of war conflicts (Guidelines)

35. Montenegro is a country in the territory of which there are no hostilities and in which, according to para. 32 of the report, there

are no minors in armed forces.

Data on members of armed forces, under the age of 18, who are kept prisoners, although they did not take direct part in war conflicts (Guidelines)

36. Pursuant to para. 32 of this report, there are no minors in the Army of Montenegro, thus there were no such cases.

Article 2: Minimum age limit for compulsory recruitment

37. In accordance with article 2 of the Optional Protocol, States Parties should ensure that persons who have not yet attained 18 years are not subject to compulsory recruitment into military forces.

Measures, including legislative, administrative or other measures, undertaken so as to ensure that persons who have not attained 18 years are not recruited into armed forces (Guidelines)

Information on the process of obligatory recruitment, from recording conscripts, to physical inclusion in armed forces (Guidelines)

38. The concept of military obligation in the legislation of Montenegro does not entail a recruitment obligation, nor the obligation of serving the military service, i.e. serving in army reserve of the Army of Montenegro. As there is no obligatory recruitment, there is no obligation of the public administration body competent for the defence affairs to set up the records of conscripts, nor is there the obligation of citizens of Montenegro to apply for introduction into military records, hence the citizens are not recorded, recruited, nor serve the military service, i.e. nor serve in army reserve of the Army of Montenegro. The Army of Montenegro is a professional defence force which defends the independence, sovereignty and state territory of Montenegro, in accordance with the principles of international law on use of force (article 129, paragraph 1, of the Constitution of Montenegro and article 2, paragraph 1, of the Law on the Army of Montenegro).

39. The army of Montenegro is composed of regular and reserve army and cadets. The regular army is composed of the military and civilians in service in the Army; the reserve consists of active and inactive reserve, while cadets are persons being educated for professional military service in professional military schools and academies. (Article 4, pp. 1–3 and Art. 8, p. 1 of the Law on the Army of Montenegro.) Mutual rights and obligations from service and based on service in the Army of Montenegro are regulated by a contract on service in the Army of Montenegro (article 33, pp. 1 and 2 of the Law on the Army of Montenegro).

Reliable documents necessary for checking the age prior to acceptance in obligatory military service (Guidelines)

40. In Montenegro, as stated in paragraph 38 for this report, there is no obligatory military service. The Law on the Army of Montenegro prescribes the publishing of a public announcement to which the citizens who want to undergo training for performing military duties in war would apply. The announcement contains preconditions that a citizen has to meet so that he/she could be directed to training for performance of duties in war, in addition to others, that he/she attained 18 years, as well as the proof which is to be submitted (central registry documentation, ID card) to enable correct identification of the person invited when it comes to personal identity and age. In the reporting period, bearing in mind that the process of formation of the Army of Montenegro as a professional defence force is under way, there was no announcement for the training of citizens for performing duties in war.

Possible legal provisions by which in exceptional circumstances (such as state of emergency), it is allowed to lower the age limit for obligatory military service (Guidelines)

41. In the law of Montenegro, pursuant to the Law on the Army of Montenegro, there is no provision which allows lowering the age limit for obligatory military service in exceptional circumstances (war and state of emergency).

Article 3: Minimum age limit for voluntary recruitment

42. In the law of Montenegro, pursuant to the Law on the Army of Montenegro, there is no recruitment obligation for the citizens, therefore, there is no provision which allows voluntary recruitment, nor a provision on determination of a minimum age limit for voluntary recruitment.

Minimum age limit for enrolling in schools operated by or under control of armed forces (Guidelines)

43. In Montenegro there are no military schools or military academies, so the persons who perform the duties of professional non-commissioned officers or professional officers are educated in military schools and academies abroad. For enrolling in these schools, the minimum age limit is determined by the regulations of each school.

Special data on schools operated by or under control of armed forces (Guideline)

44. Bearing in mind that in Montenegro there are no military schools nor military academies, this report provides data on persons educated abroad. A certain number of these students happened to be on the day of proclamation of the Republic of Montenegro at schooling in military high schools and military academies in the Republic of Serbia, and others were sent to schooling in other countries after the proclamation of independence of the Republic of Montenegro. On the day of the submission of this report, in the

Republic of Serbia there are four cadets in the military high school who are expected to graduate in the 2008/2009 school year. Also, in military academies in the Republic of Serbia there are sixteen students (I-V year), from the following fields: infantry-seven, technical service-three, mechanized and armoured units-two, financial service-two, aviation-one and communications-one. In military academies in Greece, there are nine students of which four are in the first year and five in the preparatory year, and who should finish in school year 2012/2013 or 2013/2014. In the Navy Academy in the US there is one person (I year, completion is expected in school year 2011/2012).

45. When it comes to schooling of professional members of the Army of Montenegro, and bearing in mind that there are no military schools and academies in Montenegro, it should be emphasised that their schooling and training is carried out in corresponding military educational institutions abroad and through certain specified-purpose activities in Montenegro. Namely, Montenegro committed itself to developing a professional, efficient, financially sustainable, interoperable and modern army, the mission of which is, among others, to contribute to development and preservation of peace in the region and in the world, and which is organized in accordance with experience and modern standards.

46. One very important principle of organization of the Army of Montenegro is the ability to act jointly with international military forces (interoperability). To achieve that, professional members of the Army — officers, non-commissioned officers and civilians in service in the Army — are educated, trained and qualified in the country and abroad. To that end, in the reporting period 626 members of the Army of Montenegro were at schooling or engaged in other activities of professional education abroad at such places as : War school of the Ministry of Defence of the Republic of Croatia-one officer, Academy of Defence of the Republic of Albania-one officer, Security Studies at the George Marshall Centre in Austria-three officers, High school for non-commissioned officers of the Ministry of Defence of the Republic of Croatia-two non-commissioned officers, Military Diplomatic Academy in the Republic of Croatia-one officer, Institute of security studies of Italy-one officer, General staff training in the School of national defence of Serbia-one officer, Commanding Staff School of the Republic of Croatia-one officer, Commanding General staff College of the US-one officer, Admiral staff school of the FR Germany-one officer, Logistic Centre of the FR Germany-one non-commissioned officer and at the Military and medical academy in Serbia-one officer, at foreign language courses-41 officers, seven non-commissioned officers, two contracted soldiers and one civilian in service at the Army, in other courses-100 officers, 37 non-commissioned officers, 11 contracted soldiers and 2 civilians in service in the Army; exercises-70 officers and 10 non-commissioned officers, seminars 65 officers, 9 non-commissioned officers and 5 civilians in service in the Army through other activities (visits, meetings etc.) – 216 officers, 30 non-commissioned officers, 9 contracted soldiers and 11 civilians in service in the Army.

47. 249 officers attended courses of foreign languages, 278 non-commissioned officers, 31 contracted soldiers and 45 civilians in service in the Army; other courses were attended by: 13 officers, 43 non-commissioned officers and 14 contracted soldiers and other activities (visits, meetings etc.) by 14 officers and 2 non-commissioned officers, i.e. activities of professional education in Montenegro and abroad, 1,315 members of the Army of Montenegro.

Article 4: Armed groups

Armed groups acting in the territory or from their territory of a State Party or have refuge in its territory (Guidelines)

48. There are no armed groups acting in or from the territory of Montenegro or that have refuge in its territory, accordingly, in its territory there is no recruitment of children by these armed groups.

Adoption of legal measures with the aim of prohibition and punishability of recruitment and use of children under 18 in armed conflicts by armed groups and corresponding court decision (Guidelines)

49. The criminal law of Montenegro does not contain special provisions which would be aimed at and applicable in this possible situation, considering that, as already mentioned, in Montenegro citizens are not subject to recruitment at all, nor to the obligation of serving military service in the Army of Montenegro, nor serving in the army reserve of the Army of Montenegro.

50. Note that harmonization of the criminal legislation of Montenegro with the Constitution of Montenegro and confirmed international legal instruments is under way and that this harmonization should be performed by October 22, 2009.

51. The criminal justice system of Montenegro has not so far dealt with the recruitment of children (or other similar occurrences) by the armed groups.

Article 5: Implementation of the national legislation, international instruments and international humanitarian law

Provisions of the national legislation, international instruments and international humanitarian law, applicable in Montenegro, which can to a higher extent contribute to exercise of the rights of the child, as well as the status of ratification of major international instruments referring to children in armed conflicts (Guidelines)

52. The Constitution of Montenegro, as well as the texts of many legal provisions, protects the rights of children in various spheres of life.

53. In the Constitution of Montenegro, provisions of article 72, paragraph 1, and article 73, paragraph 1, it has been determined that the family, the mother and the child enjoy special protection and in the provisions of article 75, paragraphs 1 and 2, their right to

education on equal terms has been determined, as well as that elementary education is obligatory and free, while article 64, paragraph 4 determines that the youth, women and persons with disabilities enjoy special protection on work. In addition, the Constitution of Montenegro, article 72, paragraph 2, stresses that parents are obliged to take care of children, bring them up and educate them.

54. On the broadest legislative plan, a higher number of laws dealing with special protection and the best interests of the child are applied in Montenegro:

Constitution of Montenegro ("Official Gazette of Montenegro", No. 01/07)

Family law ("Official Gazette of the RMN", No. 01/07)

Law on social and child welfare ("Official Gazette of the RMN", No. 78/05)

Law on inheritance ("Official Gazette of the FRMN", No. 4/76, 10/76, 22/78, 34/86, 64/06, "Official Gazette of Montenegro", No. 47/08)

Law on the Child's week (Published in "Official Gazette of the FRMN", No. 26/73, 29/89, 39/89, 48/91, 17/92, 27/94)

Labour Law ("Official Gazette of Montenegro", No. 49/08)

Law on health protection ("Official Gazette of the RMN", No. 39/04)

Law on health insurance ("Official Gazette of the RMN", No. 39/04, 23/05, 29/05 and "Official Gazette of Montenegro", No. 12/07, 13/07)

Law on protection and exercise of rights of persons with mental disabilities ("Official Gazette of the RMN", No. 32/05)

General law on education ("Official Gazette of the RMN", No. 64/02, 31/05, 49/07)

Law on elementary school ("Official Gazette of the RMN", No. 64/02, 69/07)

Law on elementary education ("Official Gazette of the RMN", No. 64/02, 49/07)

Law on High School ("Official Gazette of the RMN", No. 64/02, 49/07)

Law on High School ("Official Gazette of the RMN", No. 64/02, 64/07)

Law on special education ("Official Gazette of the RMN", No. 56/92)

Law on education of children with special needs ("Official Gazette of the RMN", No. 80/04)

Law on professional education ("Official Gazette of the RMN", No. 64/02, 49/07)

Criminal Procedure Code ("Official Gazette of the RMN", No. 71/03, 07/04, 47/06)

Criminal Code ("Official Gazette of the RMN", No. 70/03, 13/04, 47/06, "Official Gazette of Montenegro", No. 40/08)

Law on execution of criminal sanctions ("Official Gazette of the RMN", No. 25/94, 29/94, 69/03, 65/04)

Law on non-litigation procedure ("Official Gazette of the RMN", No. 27/06)

Law on Police ("Official Gazette of the RMN", No. 28/05)

Law on central registries ("Official Gazette of Montenegro", No. 47/08)

Law on Asylum ("Official Gazette of the RMN", No. 45/06)

Law on personal name ("Official Gazette of Montenegro", No. 47/08)

Law on Montenegrin citizenship ("Official Gazette of Montenegro", No. 13/08)

Law on the Ombudsman ("Official Gazette of the RMN", No. 41/03)

Law on the minority rights and freedoms ("Official Gazette of the RMN", No. 31/06, 51/06, 38/07)

Law on media ("Official Gazette of the RMN", No. 51/02, 62/02)

Law on broadcasting ("Official Gazette of the RMN", No. 51/02, 62/02, 46/04, 56/04, 77/06, "Official Gazette of Montenegro", No. 50/08)

Law on the Army of Montenegro ("Official Gazette of the RMN", No. 47/07)

Law on defence ("Official Gazette of the RMN", No. 47/07)

Law on Non-Governmental Organizations ("Official Gazette of the RMN", No. 27/99, 09/02, 30/02, "Official Gazette of Montenegro", No. 11/07)

Law on public peace and order ("Official Gazette of Montenegro", No. 41/94)

Law on executive procedure ("Official Gazette of the RMN", No. 23/04)

Law on environment ("Official Gazette of Montenegro", No. 48/08)

Law on Mediation ("Official Gazette of the RMN", No. 30/05)

55. The Government adopted several strategies and action plans in various areas of importance for the exercise and protection of the rights of the child. These are: Strategy for reduction of poverty (2003–2007); National plan of action for children (2004–2010); National program of prevention of unacceptable behaviour of children and youth in Montenegro (2004–2006); Strategy for permanent solution of the issue of refugees and internally displaced persons in Montenegro (2005–2008); National action plan for "Decade of Roma inclusion 2005–2015" in the Republic of Montenegro; Strategy for poverty reduction and social exclusion (2007–2011); Strategy for improvement of the RAE population position in Montenegro (2008–2012); Strategy of development of the system of social and children protection in Montenegro (2008–2012); Strategy of development of social protection of the old persons in Montenegro (2008–2012); Strategy of integration of persons with disabilities in Montenegro (2008–2016); Action plan of the Strategy for integration of persons with disabilities in Montenegro (2008–2009); Strategy of inclusive education in Montenegro (2008–2012); National strategic response to drugs (2008–2012); Action plan for implementation of the National strategic response to drugs (2008–2009), Strategy for civic education (2007–2010).

56. From international instruments from the area of humanitarian law, ratified by FRY/State Union of Serbia and Montenegro, and to which Montenegro acceded after regaining its independence, based on succession we point out the following:

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (August 12, 1949)

Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea

Geneva Convention relative to the Treatment of Prisoners of War, with appendixes, (August 12, 1949)

Geneva Convention relative to the Protection of Civilian Persons in Time of War, with appendixes (August 12, 1949)

(Protocol I) Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts, with the Appendix of June 8, 1977, "Official Gazette of CFRY – International treaties" 16/78

(Protocol II) Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts, with the appendix of June 8, 1977, "Official Gazette of CFRY – International treaties 16/78", Convention on the Prevention and Punishment of the Crime of Genocide, adopted on December 9, 1948, "Official Gazette of the Presidium of the National Assembly of CFRY", 2/50

Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects "Official Gazette of CFRY", No. 3/82

Protocol on Non-Detectable Fragments (Protocol I), "Official Gazette of CFRY – International treaties", No. 3/82

Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II), "Official Gazette of CFRY – International treaties", No. 3/82

Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III), "Official Gazette of CFRY – International treaties", No. 3/82

Protocol on Blinding Laser Weapons (Protocol IV), "Official Gazette of FRY – International treaties", No. 3/2003-15

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, "Official Gazette of Montenegro – International treaties", No. 2/2000-3

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, "Official Gazette of Montenegro – International treaties", No. 5-2003/40

Convention on the Prohibition of the Development, Production and storage of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, "Official Gazette of Montenegro-International treaties", No. 43/74-671

57. Montenegro joined the implementation of the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles) on October 20, 2008.

58. In addition to the mentioned conventions from the area of humanitarian law, Montenegro became a member, on the basis of its succession to a range of conventions of the International Labour Organization, of which Convention No. 138 concerning Minimum Age for Admission to Employment, 1973, and Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999, are the most important.

Article 6: Measures of implementation

Measures which Montenegro adopted with the aim of an efficient implementation of the provisions of the Optional Protocol (Guidelines)

Revision of the national legislation and amendments adopted (Guidelines)

59. All the laws of Montenegro are harmonized with the provisions of the Optional Protocol and obligations they contain, owing to a regular revision of constitutional and legal solutions and their alignment with the relevant international documents and assumed obligations.

Legal status of the Optional Protocol in national law and its applicability before national courts (Guidelines)

60. In accordance with article 9 of the Constitution of Montenegro, confirmed and published international treaties and generally accepted rules of international law are an integral part of internal legal system. They have priority over national legislation and are directly applied when they regulate relations differently from internal legislation. Since the Optional Protocol is confirmed and entered into force, it became an integral part of the internal legal system of Montenegro.

Ministries or governmental bodies responsible for implementation of the Optional Protocol and their coordination with the regional and local authorities and civil society (Guidelines)

61. The Ministry of Health, Labour and Social Welfare is in charge of monitoring implementation of the Optional Protocol.

62. Ministries directly responsible for implementation of provisions of the Optional Protocol in the national plan are the Ministry of Defence, Ministry of health, Labour and Social Welfare.

63. Within its competencies and when necessary, mentioned public administration bodies carry out direct cooperation and coordination with the regional and local authorities and civil society.

64. In schools, through obligatory and optional programs, as well as through the work of Unions/communities of students, student parliaments and parent councils, activities are introduced for prevention of involvement of children in possible armed conflicts. Also, through projects of non-governmental organizations, and with the support of the Ministry of education and science, projects which contain in their programs the activities for prevention of this occurrence are implemented.

65. In promotion of the rights of the child and promotion of this Optional Protocol the following are also entitled: courts, guardianship bodies, Council for the rights of the child, the Ombudsman. Also, the Red Cross of Montenegro plays an important role in the protection of victims of armed conflicts.

Mechanisms and means for monitoring and periodical evaluation of implementation of the Optional Protocol (Guidelines)

66. In Montenegro, both current constitutional and legal solutions related to this area are continually monitored. In addition, the experiences of bodies competent for immediate implementation of the Optional Protocol are especially monitored, so that in case of need, corresponding legislative, administrative and other measures, necessary for consistent and full implementation of that document would be undertaken.

Distribution of the Optional Protocol in all major languages to children and adults, especially to those who are responsible for recruitment and training of professional groups working with children and for children (Guidelines)

67. The text of the Optional Protocol, as already mentioned, is published on the web site of the Ministry of Health, Labour and Social Protection and the Ministry of Defence.

68. Responsible persons – participants in procedures in which decisions are made on the rights and obligations of citizens during regular schooling, and especially during the additional professional training, are acquainted with the contents of the area of international humanitarian law and human rights, generally.

69. Members of competent ministries and other state bodies of Montenegro, in the scope of action of which is the implementation of the Optional Protocol, as well as professional groups, whose activity is aimed at work with children and for children, including non-governmental organizations (relating to provisions of this document), are acquainted in different manners (training, seminars, round tables etc.), with the content of the Optional Protocol.

Article 7: International cooperation

Information on cooperation in implementation of the Optional Protocol, including technical cooperation and financial assistance (Guidelines)

70. The Government of Montenegro is very active in the field of implementation of the Optional Protocol. In that sense, the Government makes special efforts to promote the implementation of key provisions of the Optional Protocol, and the exercise of rights of children in general, in cooperation with the UN specialized agencies and international humanitarian organizations and other states as well. The efforts of Montenegro are especially supported by the UNICEF and United Nations High Commissioner for Refugees, and international charity organizations such as, for example, the International Committee of the Red Cross.

71. In its international activities, both in multilateral conferences dedicated to exercise and protection of rights of children and in

bilateral contacts, Montenegro often points to the necessity of acception, i.e. confirmation of the Optional Protocol.