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## **Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21**

### **Montenegro\***

The present report is a summary of 7 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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\* The present document was not edited before being sent to United Nations translation services.

## **I. Information provided by other stakeholders<sup>2</sup>**

### **A. Background and framework**

#### **1. Scope of international obligations**

1. Joint Submission 1 (JS1) recommended that Montenegro ratify OP-CRC-IC by the end of 2013.<sup>3</sup> In 2012, the Council of Europe-European Commission against Racism and Intolerance (CoE-ECRI) recommended that Montenegro complete ratification of ICRMW<sup>4</sup> and ratify the 1961 *Convention on the Reduction of Statelessness*.<sup>5</sup>

#### **2. Institutional and human rights infrastructure and policy measures**

2. In 2008, CoE-Commissioner for Human Rights (CoE-Commissioner) stressed that independence, impartiality and sufficient funding coupled with parliamentary debate of the institution's annual report, are essential preconditions for an effective and efficient Ombudsman institution.<sup>6</sup>

3. Amnesty International (AI) reported that the Ombudsman had been designated as the National Preventive Mechanism (NPM) in accordance with OP-CAT; however, it lacked the necessary legal framework, resources and staff to discharge its duties. Secondary legislation is still required to implement relevant articles of the Law on the Ombudsman, including defining the rules of procedure for the NPM.<sup>7</sup>

4. CoE-Commissioner supported the intention of the Parliamentary Committee for Human Rights and Fundamental Freedoms to issue regular human rights assessment reports. However, party politics appeared to have affected the functioning of this committee in a most negative manner.<sup>8</sup>

5. According to the CoE-Commissioner, consultation with NGOs in legislation and policy development did not yet appear to be satisfactory.<sup>9</sup> The Commissioner called upon the authorities to ensure that the process of state funding of NGOs is transparent.<sup>10</sup>

### **B. Cooperation with human rights mechanisms**

6. CoE noted that the Commissioner for Human Rights, in assessing the general human rights situation, prioritised freedom of the media, the functioning of the judiciary and the unresolved situation of refugees in the country. Other areas highlighted included the situation of national minorities, in particular the Roma population, detention and imprisonment, police abuse and effective complaints mechanisms, rights of persons with disabilities and national human rights mechanisms including the Ombudsman.<sup>11</sup>

### **C. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **1. Equality and non-discrimination**

7. The Protector of Human Rights and Freedoms (Ombudsman) reported that legislative framework for the protection against discrimination was adopted and the Ombudsman established as an institutional mechanism for protection against discrimination in the public and private sector. However discrimination is still present with regard to Roma, persons with disabilities, LGBT persons, women, elderly persons and members of national minorities.<sup>12</sup>

8. The Ombudsman had recorded a small number of reported cases of discrimination, which was a consequence of insufficient knowledge about human rights and protection mechanisms, as well as the lack of readiness among citizens to report such incidences.<sup>13</sup> According to information submitted by the CoE, the Commissioner for Human Rights in December 2010 encouraged the authorities to broadly raise awareness on the principles contained in the Law on Anti-Discrimination adopted in July 2010, which included a ban on discrimination on grounds of sexual orientation and gender identity.<sup>14</sup> Society for Threatened People (STP) commented that the Ombudsman and his office did not have enough human, technical and financial resources to implement the law.<sup>15</sup> AI noted that by December 2011 only 20 cases of discrimination had been received by the Ombudsman and was concerned that the institution lacked the competencies and capacity to address such cases.<sup>16</sup> Additionally, CoE-ECRI regretted that the full range of possible powers was not granted to the Protector to combat discrimination effectively.<sup>17</sup>

9. The Ombudsman reported that, in practice, women were still in an unfavourable position. Hidden discriminatory treatment prevented their equal participation in all areas of life.<sup>18</sup> Relevant authorities need to strengthen the mechanisms for implementation of gender equality at the national and local levels. There needed to be consistent implementation of regulations in order to achieve the balanced representation of women and men in representative bodies and authorities at all levels. It is necessary to take measures that will contribute to: reducing women's unemployment, eliminating all forms of discrimination against women in employment, raising civil awareness and creating gender sensitivity for recognizing the importance of implementing equal opportunities.<sup>19</sup>

10. CoE-Commissioner stated that the Roma population was the most discriminated against and marginalized minority in Montenegro.<sup>20</sup> CoE-Commissioner reported that about 2,200 Roma were living in appalling conditions in the two Konik camps. They mainly hosted Roma from war in the region. Roma in the Konik shanty town outside of those camps comprised both "internally displaced" and domicile Roma.<sup>21</sup> CoE-ECRI noted that a delegation of ECRI visited the camp at Konik where the largest group of around 1500 RAE "IDPs" currently lived.<sup>22</sup> CoE/ECRI was deeply alarmed at the appalling living conditions and deprivation of the inhabitants of the Konik camp. It considered that the current housing conditions for this group of people were not only unhealthy, unsanitary and inhuman but also extremely hazardous. The situation was all the more shocking in that many of the residents claimed to have lived in this way for almost 12 years.<sup>23</sup> Similar concerns were expressed by the Ombudsman,<sup>24</sup> AI,<sup>25</sup> and STP.<sup>26</sup>

11. CoE-ECRI reported that Roma, Ashkali and Egyptian (RAE)<sup>27</sup> children suffered discrimination in access to education and in the school environment. RAE faced obstacles in access to employment.<sup>28</sup> Many RAE were not legally registered and did not have any personal documents, which hindered access to their rights.<sup>29</sup> STP also reported on the challenges and problems Roma faced and indicated that there needs to be an autonomous institution monitoring the implementation of government strategies for the Roma.<sup>30</sup>

12. CoE-ECRI reported that according to the Statistical Office of Montenegro there were 9,934 RAE in Montenegro, of which 5,649 are domiciled Roma and 4,285 "internally displaced" RAE. Unofficial estimates, however, put the total figure of all RAE at around 20,000 persons.<sup>31</sup> Some RAE domiciled in Montenegro were confronted with the risk of statelessness for the same reasons as "internally displaced" RAE. They were not registered at birth or they lacked proof of such registration.<sup>32</sup> JS1 also referred to the legal status problems faced by children in Montenegro.<sup>33</sup> JS1 recommended that the Government define and simplify procedure for registration of children born outside of health institutions, to ensure that all children have access to birth registration without discrimination by 2014.<sup>34</sup>

13. CoE reported that ECRI in its 2012 report selected two specific recommendations for which it requested priority implementation from the authorities and which it will revisit within two years. They were: to strengthen the initial and in-service training provided to police and judiciary on issues related to equal treatment and non-discrimination, on relevant

criminal law provisions and on how to recognise the racist motivation of an offence; and to close down the Konik camp and find for its inhabitants standard accommodation all around the town or the country, following consultations with the people concerned.<sup>35</sup>

14. According to JS2, the LGBT community was facing three main problems: a high level of homophobia, meaning a high influence of stereotypes and prejudices on attitudes and low level of knowledge on sexuality and gender identity among the general population and professionals; violence and discrimination, which was rarely reported and documented; and an inadequate legal and institutional framework addressing their needs.<sup>36</sup> JS2 referred to recorded severe cases of hate speech (especially by government and church officials), which were not sanctioned and to unresolved hate crimes.<sup>37</sup> JS2 recommended, *inter alia*, that the Criminal Code should be amended so that hate crimes against persons of homosexual orientation (homophobia) or transgender persons (transphobia), as well as other forms of hate crimes, would be considered as severe forms of criminal offence.<sup>38</sup> Referring to public gatherings of LGBT persons, JS2 further recommended that the Montenegrin Government should guarantee the right to peaceful assembly and the adequate protection of LGBT persons and their allies; obtain public support of high Government officials e.g. public statements or their participation in the “pride march”; implement campaigns to decrease homophobia and promote the acceptance of queer identities and cultures.<sup>39</sup> JS2 also made recommendations for the right to the best available health care for LGBT persons, including the need for a more consistent LGBT-friendly mental health system and data protection for persons living with HIV, men who have sex with men and on transgender health issues.<sup>40</sup>

## **2 Right to life, liberty and security of the person**

15. CoE noted that in 2010 the Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) published the report on its 2008 visit, together with the Montenegrin authorities’ response. During the visit, the CPT’s delegation received numerous allegations of deliberate physical ill-treatment of persons deprived of their liberty by the police and observed, in some cases, physical marks consistent with allegations made. Particular attention was paid to the manner in which investigations were being carried out into cases involving allegations of ill-treatment. The report concluded that the effectiveness of such investigations needs to be improved. Further, the Committee made a series of recommendations aimed at strengthening legal safeguards against ill-treatment. In their response, the Montenegrin authorities referred to steps taken to improve the training for police officers.<sup>41</sup>

16. CoE reported that the CPT recommended that the authorities deliver to prison staff a firm message that physical ill-treatment and verbal abuse of inmates are not acceptable and will be dealt with severely.<sup>42</sup>

17. CoE reported that a number of improvements had been noted regarding the material conditions for sentenced prisoners.<sup>43</sup> However, the conditions in which remand prisoners were being held had deteriorated, due to the alarming level of overcrowding. The situation was exacerbated by the fact that remand prisoners remained for 23 hours or more a day inside their cells, in some cases for several years.<sup>44</sup>

18. CoE referred to the CPT delegation’s findings from its visit to the Komanski Most Institution for People with Special Needs. The extremely low number of staff was at the core of the Institution’s inability to provide adequate protection, care, hygiene and a regime for the residents. Material conditions were appalling, and the CPT’s delegation found residents fixed to beds or other furniture, mostly with torn strips of cloth but also by chains and padlocks. The Committee called upon the authorities to carry out a comprehensive review of the situation and to draw up a detailed action plan for reforming the Komanski Most Institution. In their response, the Montenegrin authorities referred to the recruitment of additional staff, the separation of children from adult residents, and measures to provide better living conditions for residents.<sup>45</sup>

19. The Ombudsman had assessed the condition of police detention premises in 2011 and conducted research into the situation of the rights of mentally ill persons placed in institutions, and prepared special reports on these two issues. According to the Ombudsman, a large number of shortcomings pointed out by CPT and the Ombudsman had been removed. Boxes for complaints and appeals to the Ombudsman had been installed in all prison facilities and closed type institutions allowing for direct and confidential communication with him. Individual cases of torture and the breach of other rights of prisoners had been recorded. The Ombudsman stated that, despite the expansion of prison capacities, overpopulation was still the main problem. It is necessary to develop a system of alternative sanctions and rehabilitation activities and to increase the capacities for placement.<sup>46</sup>

20. Global Initiative to End All Corporal Punishment of Children reported that corporal punishment was lawful and recommended that Montenegro enact legislation to explicitly prohibit corporal punishment of children in all settings including the home as a matter of priority.<sup>47</sup>

21. JS1 reported on the implementation of a recommendation of the Human Rights Committee and UPR with the adoption of the Law on Protection against Domestic Violence in July 2010, with the active participation of representatives of civil society sector.<sup>48</sup> JS1 alleged that the Law omitted the obligation to establish support services for victims of violence (emergency accommodation, continuous psychosocial support, counselling, etc.), with the excuse that this will be determined by the new law on social and child protection.<sup>49</sup>

22. According to the Ombudsman, reporting of domestic violence was very low, data on violence and types of violence were incomplete, and the policy of sanctioning violent persons was relatively mild.<sup>50</sup> Montenegrin legislation provided protection of children from abuse and neglect, but the existing measures did not provide adequate protection for the victims of violence. There was still a high level of tolerance to various forms of violence and abuse, both within and outside the family. There was a lack of institutions and developed social protection services that would provide assistance and support to children victims of violence.<sup>51</sup>

23. JS1 explained that in accordance with the recommendations of the Committee on the Rights of the Child, Montenegro had adopted the Strategy for the prevention of violence, strengthened existing operational multidisciplinary teams for protecting children against violence<sup>52</sup> and implemented various public campaigns.<sup>53</sup> JS1 recommended that the Government develop and implement a comprehensive child protection system, including the establishment of mechanisms for following cases and the scope of abuse, neglect maltreatment of children including in the family, school, institution or other type of care; ensure that professionals working with and for children receive adequate training and education about appropriate treatment and actions in cases of suspected abuse and neglect; and strengthen psychological support through the development of adequate services (such as a unique counselling line, shelters for emergency accommodation, counselling and psychological and psychiatric support for child victims of abuse and neglect).<sup>54</sup>

24. The Ombudsman reported that a certain number of children who lived below the poverty line were frequently exposed to the risk of becoming victims of various forms of abuse and exploitation (beggary, prostitution, trafficking). Research showed that the problem of child beggary in Montenegro was evident.<sup>55</sup> STP referred to the Ombudsman's report, according to which the "registered" beggars were almost exclusively non-Montenegrin nationals.<sup>56</sup>

### **3. Administration of justice, including impunity and the rule of law**

25. According to the Ombudsman, the efficiency of the judicial system had significantly improved. However, additional harmonization of the constitutional regulations with international standards is needed to eliminate political influence on the judiciary. The

procedure for amendment of the Constitution, with regard to the judiciary, is underway. The Ombudsman indicated that the percentage of received complaints regarding the work of courts was still high and there was a low level of success of parties using legal remedies in accordance with the *Law on the Protection of the Right to Trial within a Reasonable Time*. The *Law on Free Legal Aid* had been applicable since 1<sup>st</sup> January 2012 and offices for free legal aid had opened in all basic courts; however, the funds allocated for this purpose were insufficient. The Ombudsman stated that it is necessary to further strengthen the courts and court administration, primarily of the courts deciding in the first instance; and to provide conditions for establishing an even more efficient judicial system, where the problem of delayed cases will be resolved and where the judiciary will be trained not to produce new delays.<sup>57</sup>

26. With reference to the Judicial Reform Strategy 2007-2012, the CoE-Commissioner stated that the plan of action failed to indicate the financial resources necessary for implementation.<sup>58</sup> CoE-Commissioner stated that a persisting climate of impunity existed surrounding a number of controversial murders, war crimes, police abuses, threats and physical violence towards human rights defenders (including civil society opinion leaders and journalists/media representatives).<sup>59</sup> Criminal proceedings against law enforcement officers for extortion of evidence, ill-treatment, torture or abuse of office happened relatively seldom and were not conducted efficiently.<sup>60</sup> Despite the fact that some of the war crimes related to Montenegro were considered to be among the best documented and evidenced in the region, very few and the lowest level responsible actors had been held accountable thus far.<sup>61</sup>

27. CoE-ECRI indicated that it had been informed that there were few members of national/ethnic minorities in the police and no RAE at all.<sup>62</sup> CoE-ECRI recommended that the authorities increase their efforts to ensure there is no police impunity and invited the authorities to consider ways to increase the recruitment of national/ethnic minorities in the police.<sup>63</sup>

28. AI expressed concern that the previous review did not adequately address the issue of impunity for crimes under international law, despite the fact that it was one of the major human rights concerns. Only one UPR recommendation was made in that respect in 2008 and impunity for past crimes, including war crimes, persisted. AI reported that since 2008, Montenegro had opened four prosecutions in cases of crimes under international law, which have been under investigation for many years.<sup>64</sup> AI provided detailed information on the four cases: the “deportations” case, the “Morinj” case, the “Bukovica” case and the “Kaludjerski Laz” case.<sup>65</sup> On the “deportations” case AI stated that on 29 March 2011, nine former police officers and government officials were acquitted of war crimes against the civilian population on the basis that they could not be convicted on charges of war crimes because there was no armed conflict in Montenegro in 1992. The nine men had been charged with the deportation (enforced disappearance) of 83 Bosniac civilians in 1992. An appeal against the acquittal was lodged. On 17 February 2012, the Appeal Court of Montenegro returned the “deportations” case for retrial on the basis that “the armed conflict in the territory of B&H has the character of [an] international armed conflict”.<sup>66</sup>

29. Regarding the four cases, AI drew attention to the shortcomings of proceedings, including their length, the number of acquittals on procedural grounds and the handing down of sentences incommensurate with the gravity of the crime.<sup>67</sup> AI recommended that the Government ensure that victims of crimes under international law are guaranteed access to justice and reparations, including by taking all necessary measures to prosecute and punish perpetrators of violations of international human rights law and humanitarian law.<sup>68</sup>

30. The Ombudsman referred to the *Law on Treatment of Juveniles in Criminal Proceedings*, which establishes the system of juvenile justice. Consistent implementation of the Law requires education of judges, prosecutors, lawyers and police officers, as well as ensuring effective work of services and departments.<sup>69</sup>

31. The Ombudsman indicated that he had prepared a *Special Report on the Realization of the Rights to Restitution of Ownership Rights and Compensation*. The Ombudsman explained that the procedures for restitution and compensation were unnecessarily long with the process significantly slower in the south. He made recommendations for finalizing the procedures as soon as possible.<sup>70</sup>

32. According to the CoE-Commissioner, there was widespread public perception that corruption infiltrated the political sphere, legal system and public administration.<sup>71</sup> He recommended that Montenegro continue to combat corruption in the court system and the public administration, while ensuring that anti-corruption procedures are free from political or other undue influence.<sup>72</sup>

#### **4. Right to privacy, marriage and family life**

33. JS1 stated that the Government should enact necessary legislation by 2014, to ensure protection of the child's right to privacy and prosecution of violations of this right by the media.<sup>73</sup>

34. According to JS1, the number of children without parental care placed in foster families was 281; and the number children placed in institutions was 173 children, 144 of whom were accommodated in the Children Home "Mladost" – Bijela.<sup>74</sup> JS1 was encouraged that Montenegro, with support from UNICEF, had launched the process of drafting the law on social and child protection and the National Strategy for the development of foster care and of creating minimum standards for protecting children without parental care.<sup>75</sup> JS1 recommended adoption of the law on social and child protection by the end of 2012.<sup>76</sup>

#### **5. Freedom of religion or belief, expression, and right to participate in public and political life**

35. CoE-Commissioner stated that tensions continued between the Serbian and Montenegrin churches as both had made conflicting property claims. The Government had been inactive in addressing the grievances of the Serbian Orthodox Church, and to a lesser extent, the Roman Catholic Church resulting in long delays in returning their property. The Commissioner encouraged the Government to try and resolve these disputes as soon as possible.<sup>77</sup> The Ombudsman stated that it is necessary to regulate the restitution of property that was once taken from religious communities.<sup>78</sup>

36. AI continued to be concerned about restrictions on the right to freedom of expression, including freedom of information. Despite the decriminalization of defamation in June 2011, defamation suits continued to be brought against journalists, in many instances by public officials. If journalists were unable to pay civil damages, currently set at a maximum of €14,000, custodial sentences were imposed. This created a climate of self-censorship for journalists and deterred independent investigative journalism.<sup>79</sup> AI reported that journalists faced attacks and threats, especially those investigating "taboo" areas, such as organized crime or alleged links between organized crime and the government. Two individual cases were referred to.<sup>80</sup>

37. The Ombudsman reported that decriminalization of defamation had contributed to a reduction in the number of cases prosecuted against media and the courts started to apply regional practice and Montenegro's Supreme Court's guidance in determining compensation for non-material damage. The Ombudsman stated that it is necessary to investigate and process the recent and earlier unresolved cases of violence against journalists; and to improve respect for professional ethics and standards among journalists.<sup>81</sup>

38. CoE-Commissioner stated that a number of uncleared instances of violence (including murder) against critical journalists, intimidation, defamation charges with disproportionate indemnity claims and irregular financial investigations suggested an

environment in which the media sector was not in a position to function in a truly open and free manner.<sup>82</sup>

39. AI referred to reports that information requested from the government under the Law on Information was rarely provided within the time-limits stated in law. AI stated that on 12 April 2012, the NGO Human Rights Action received a reply to a request for information, almost two years after the original request was lodged on 12 May 2010. The NGO had requested information about progress made in investigations of 12 emblematic cases of human rights violations, including unresolved politically motivated murders.<sup>83</sup> The partial information provided revealed little progress in these cases.<sup>84</sup>

#### **6. Right to work and to just and favourable conditions of work**

40. CoE-ECRI reported that restricted access to employment had pushed many “displaced” and “internally displaced” persons into grey market activities for survival.<sup>85</sup> While “displaced persons” suffered little discrimination in employment, 4300 “internally displaced persons” were registered as unemployed.<sup>86</sup> According to some figures, more than 80% of the RAE population was unemployed. Of those living in Konik camp almost no one was employed. Many collected waste material for recycling and resorted to begging. The high degree of poverty contributed to the further social exclusion of this population.<sup>87</sup> Similar concerns were expressed by STP.<sup>88</sup>

#### **7. Right to social security and to an adequate standard of living**

41. The Ombudsman reported that despite the measures taken, a certain number of children lived below the poverty line and were not provided with basic conditions for regular growth and development. Children of the RAE population, “displaced” persons, and children who lived in “incomplete” families were particularly vulnerable.<sup>89</sup> JS1 reported that 10% of children and 6.1% of adults were living in poverty in Montenegro, with a monthly spending of less than 169.13 euro. Poverty indicators showed that children in the northern municipalities were much more affected by poverty than their peers in other regions.<sup>90</sup>

#### **8. Right to education**

42. CoE-ECRI reported that according to the authorities around 80% of the RAE population was illiterate. One of the most serious problems was the high and early drop-out rate. Data indicated that only around 20% of RAE pupils completed compulsory education.<sup>91</sup> CoE-ECRI also noted some progress. In the 2001-2002 school year there were 536 enrolments of RAE children in elementary school, while in 2010-2011 school year the figure rose to 1,424 enrolments. However in 2010-2011 there were only 78 enrolments at high school.<sup>92</sup> CoE-ECRI recommended that the authorities increase RAE children’s attendance at pre-school facilities, to enable them to learn the Montenegrin language before entering elementary school.<sup>93</sup>

#### **9. Persons with disabilities**

43. JS1 reported that in 2009 Montenegro ratified CRPD and OP-CRPD.<sup>94</sup> Montenegro had adopted the Strategy for the Integration of Persons with Disabilities, Inclusive Education Strategy and the Strategy of Social and Child Protection and, by these documents, provided for a range of measures and activities to improve the position of children with development disabilities. However, despite the adoption of these documents and other laws and regulations pertaining to children with development disabilities, due to poor implementation of regulations and large prejudices towards this population, there were many problems that persons with disabilities meet every day.<sup>95</sup> JS1 recommended that Montenegro raise awareness of the needs of children with disabilities and establish an adequate system that provides for their social and educational inclusion; customize educational institutions, develop a network of day care centres, provide access to public



facilities, remove architectural barriers and provide rehabilitation services, by 2015; and increase social benefits for families with children with disabilities by 2014.<sup>96</sup>

44. The Ombudsman noted that persons with disabilities still faced problems. The Ombudsman stated that it is necessary to improve activities related to promotion, prevention and protection against discrimination, to establish records and data bases for all registered cases of discrimination, to provide accessibility to public buildings and areas for persons with disabilities, to develop the existing and establish new services providing support to persons with disabilities.<sup>97</sup>

## 10. Minorities

45. CoE-ECRI noted that several ethnic groups lived in Montenegro, none of which formed the majority.<sup>98</sup> STP reported that according to the census in April 2011 about 625,000 people lived in Montenegro and the population was composed of: 45% Montenegrins, 29% Serbs, 8.6% Bosniaks, 3.3% Muslims, 5% Albanians, 1 % Croats and 1% Roma.<sup>99</sup>

46. CoE-ECRI noted that Montenegro was often described as a model of good inter-ethnic relations and believed that efforts should be made to maintain and consolidate this achievement.<sup>100</sup> ECRI encouraged the authorities to consider establishing a basic syllabus on the history and culture of the six national/ethnic minority communities in Montenegro.<sup>101</sup>

47. CoE-ECRI referred to amendments to the *Law on Minority Rights and Freedoms* of 2006, according to which citizenship was no longer a condition for being recognized as a minority member,<sup>102</sup> and new rules on elections to Minority Councils and on the allocation of funding. Funding in the future will be based on the quality of projects rather than the size of the minority.<sup>103</sup>

48. CoE referred to the report of ECRI which highlighted that there was no authentic representation of national/ethnic minorities in Parliament and no proportionate representation in public services, state bodies and local self-government.<sup>104</sup> According to CoE-ECRI this was mainly due to the absence of reliable data reflecting the current national/ethnic composition of the population on which to base such representation.<sup>105</sup> The Ombudsman expressed similar concerns regarding representatives of national minorities' employment in the public sphere, proportional representation in legal and political institutions as well as certain problems in the field of education, culture, information and publishing activities. The Ombudsman recommended that public authorities continue with necessary activities in order to provide proportional representation of members of national minorities. It was necessary to regulate the authentic representation of national minorities at the local level by a law, in accordance with the constitutional principle of affirmative action.<sup>106</sup>

49. CoE referred to the first report on the situation of minority languages. CoE reported on the call for Montenegro to take the necessary steps to promote the codification and development of written Romani, in co-operation with the speakers. The authorities are encouraged to introduce teaching of the Romani language at pre-school, primary and secondary levels. Montenegro should strengthen teacher training in Albanian, and clarify the territories where the Albanian and Romani languages are in official use.<sup>107</sup>

## 11. Migrants, refugees and asylum-seekers and internally displaced persons

50. CoE referred to ECRI's comments that the legal status of "displaced" and "internally displaced" persons remained problematic. The procedure established to resolve this issue was complex and many people would not be able to meet the requirements. Some risked de facto statelessness.<sup>108</sup> The Ombudsman pointed out that commitment by the Government to find permanent solutions for the issues of displaced persons resulted in the adoption of strategic documents in 2011.<sup>109</sup> CoE-ECRI referred to the Government's *Strategy for permanently resolving the issue of displaced and internally displaced persons in*

*Montenegro with a particular focus on Konik I and II* adopted on 28 July 2011.<sup>110</sup> CoE-ECRI noted that the authorities continued to pursue repatriation as an option despite relatively low levels of interest.<sup>111</sup> It expressed concern that the Government was focusing more on voluntary return or resettlement in a third country as the main solutions, rather than integration in Montenegro.<sup>112</sup> CoE-ECRI was uneasy about some of the short term measures set out in the RAE strategy such as the legalisation of Roma neighbourhoods and reconstruction of residential areas with solid materials. In ECRI's view this would serve only to perpetuate the segregated living areas of RAE, albeit in improved conditions.<sup>113</sup>

51. JS1 stated that the Government, through amendments and modification of the Law on Foreigners, had allowed “displaced” persons to have privileged access to the status of foreigner with permanent residence as a form of local integration.<sup>114</sup> JS1 further reported that due to lack of identity papers and problems with the registration of children born outside of health care facilities, objectively it could be expected that a fair number of “displaced” persons, especially those from the RAE population, would not be able to apply for the status of the foreigner before the given deadline (31.12.2012).<sup>115</sup> JS1 referred to alleged recent actions of the Ministry of Interior to strike from the Registry of Montenegrin citizens, children who in certain municipalities enrolled as citizens before 1 January 2009, because their registration was without legal grounds.<sup>116</sup> Similar concerns were expressed by the Ombudsman, AI and STP.<sup>117</sup> JS1 recommended that the Government simplify procedures for achieving the status of foreigner with permanent residence and establish mechanisms for identifying and registering stateless persons or persons at risk of statelessness and undertake concrete activities for prevention and elimination of causes that lead to the stateless by 2014.<sup>118</sup>

52. CoE-ECRI noted that “displaced” and “internally displaced” persons who fled from regional conflicts in 1990s had resided in Montenegro for many years. However, they were denied the right to participate in the local decision making process on matters which affected them.<sup>119</sup> For those persons who managed to obtain the status of foreigner with permanent residence, they would still not have any electoral rights, although they would be granted all the other rights of Montenegrin citizens.<sup>120</sup> CoE-ECRI recommended that the authorities amend Article 45 of the Constitution to open possibilities for non-citizens to vote.<sup>121</sup>

## 12. Environmental issues

53. The Ombudsman reported that ecological awareness of the citizens was not sufficiently developed. Violations of the right to a healthy environment were mostly a consequence of the construction of buildings without a permit and the inconsistent implementation of urban, construction and planning regulations.<sup>122</sup>

### Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org).

#### *Civil society:*

AI	Amnesty International (London, United Kingdom);
GIEACPC	Global Initiative to End All Corporal Punishment against Children, (United Kingdom);
JS1	Joint submission by the Informal Coalition of non-governmental organizations dealing with children's rights in Montenegro: Centre for Children Rights of Montenegro, Podgorica; Centre for Human and Minority Rights of Montenegro, Podgorica; Children First, Podgorica; Citizen's alliance, Podgorica; New Chance in Novi, Herceg Novi; Legal Centre, Podgorica;; NGO Youth Forum and Informal Education,

	Podgorica; Beginning, Niksic; Humanitarian, Niksic; Union of Associations of Parents of Children and Youth with Disabilities “Our initiative”, Podgorica;
JS2	Joint submission by Juventas, Montenegro and ILGA-Europe;
Ombudsman	Protector of Human Rights and Freedoms of Montenegro;
STP	Society for Threatened Peoples (Germany).
<i>Regional organizations:</i>	
CoE	Council of Europe submission for the UPR of Montenegro (Strasbourg, France); Attachments: (CoE-Commissioner) Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, on his visit to Montenegro, 2-6 June 2008, CommDH(2008)25; (CoE-ECRI) European Commission against Racism and Intolerance report on Montenegro adopted on 8 December 2011 and published on 21 February 2012, CRI (2012)5.

<sup>2</sup> The following abbreviations have been used for this document:

OP-CAT	Optional Protocol to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD.

<sup>3</sup> JS1, para. 5.

<sup>4</sup> CoE-ECRI, CRI(2012)5, para. 4.

<sup>5</sup> CoE-ECRI, CRI(2012)5, para. 93.

<sup>6</sup> CoE-Commissioner, CommDH(2008)25, para. 17.

<sup>7</sup> AI, p.2.

<sup>8</sup> CoE-Commissioner, CommDH(2008)25, paras. 19-21.

<sup>9</sup> CoE-Commissioner, CommDH(2008)25, para. 23.

<sup>10</sup> CoE-Commissioner, CommDH(2008)25, para. 24.

<sup>11</sup> CoE, submission for the UPR of Montenegro, p. 5.

<sup>12</sup> Ombudsman, p. 3, section on protection against discrimination.

<sup>13</sup> Ombudsman, p. 3, section on protection against discrimination.

<sup>14</sup> CoE, submission for the UPR of Montenegro, p. 6.

<sup>15</sup> STP, para. 6. See also, Ombudsman, p. 3, section on protection against discrimination.

<sup>16</sup> AI, p. 1.

<sup>17</sup> CoE-ECRI, CRI(2012)5, para. 30

<sup>18</sup> Ombudsman, p. 3, section on gender equality.

<sup>19</sup> Ombudsman, p. 4, section on gender equality.

<sup>20</sup> CoE-Commissioner, CommDH(2008)25, para. 106.

<sup>21</sup> CoE-Commissioner, CommDH(2008)25, para. 109.

<sup>22</sup> CoE/ECRI, CRI(2012)5, para. 57.

<sup>23</sup> CoE-ECRI, CRI(2012)5, para. 59.

<sup>24</sup> Ombudsman, p. 4.

<sup>25</sup> AI, p. 5.

<sup>26</sup> STP, para. 8.

<sup>27</sup> CoE-ECRI, CRI(2012)5, para. 94.

<sup>28</sup> CoE-ECRI, CRI(2012)5, p.7.

<sup>29</sup> CoE-ECRI, Press Release of 21 February 2012, accessed at [http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/102-21\\_02\\_2012\\_Montenegro\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/102-21_02_2012_Montenegro_en.asp).

<sup>30</sup> STP, paras. 9-10.

<sup>31</sup> CoE-ECRI, CRI(2012)5, para. 95.

<sup>32</sup> CoE-ECRI, CRI(2012)5, para. 105.

- 33 JS1, paras. 14-23.
- 34 JS1, para. 23.
- 35 CoE, submission for the UPR of Montenegro p. 3.
- 36 JS2, p.1.
- 37 JS2, p.3.
- 38 JS2, p.3, recommendation 3.
- 39 JS2, pp. 4-5.
- 40 JS2, p. 5.
- 41 CoE submission for the UPR of Montenegro, p. 1.
- 42 CoE submission for the UPR of Montenegro, p. 1.
- 43 CoE submission for the UPR of Montenegro, p. 1.
- 44 CoE submission for the UPR of Montenegro, p. 1.
- 45 CoE submission for the UPR of Montenegro, p. 1.
- 46 Ombudsman, p. 3, section on torture.
- 47 GIEACPC, p.1.
- 48 JS1, para. 36.
- 49 JS1, para. 38.
- 50 Ombudsman, p. 3, section on gender equality.
- 51 Ombudsman, p. 5, section on the rights of the child.
- 52 JS1, para. 39.
- 53 JS1, para. 40.
- 54 JS1, para. 43.
- 55 Ombudsman, p. 5, section on the rights of the child.
- 56 STP, para. 11.
- 57 Ombudsman, p.2, section on the Judiciary.
- 58 CoE-Commissioner, CommDH(2008)25, para. 38.
- 59 CoE-Commissioner, CommDH(2008)25, para. 32.
- 60 CoE-Commissioner, CommDH(2008)25, para. 33.
- 61 CoE-Commissioner, CommDH(2008)25, para. 35.
- 62 CoE-ECRI, CRI(2012)5, para. 125.
- 63 CoE-ECRI, CRI(2012)5, para. 126.
- 64 AI, p.2.
- 65 AI, pp. 2-3.
- 66 AI, p. 2.
- 67 AI, p. 3.
- 68 AI, p. 5.
- 69 Ombudsman, p. 5, section on the rights of the child.
- 70 Ombudsman, p. 5, section on restitution.
- 71 CoE-Commissioner, CommDH(2008)25, para. 28.
- 72 CoE-Commissioner, CommDH(2008)25, p. 32, recommendation 16.
- 73 JS1, para. 30.
- 74 JS1, para. 46.
- 75 JS1, para. 51.
- 76 JS1, para. 52.
- 77 CoE-Commissioner, CommDH(2008)25, para. 105.
- 78 Ombudsman, p. 5, section on restitution.
- 79 AI, p. 3.
- 80 AI, p. 3.
- 81 Ombudsman, p. 2, section on freedom of media.
- 82 CoE-Commissioner, CommDH(2008)25, para. 67.
- 83 AI, p. 3.
- 84 AI, pp. 3-4.
- 85 CoE-ECRI, CRI(2012)5, para. 48.
- 86 CoE-ECRI, CRI(2012)5, para. 49.
- 87 CoE-ECRI, CRI(2012)5, para. 50.
- 88 STP, para. 5.

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- 89 Ombudsman, p. 5, section on the rights of the child.  
90 JS1, para. 11.  
91 CoE-ECRI, CRI(2012)5, para. 37.  
92 CoE-ECRI, CRI(2012)5, para. 43.  
93 CoE-ECRI, CRI(2012)5, para. 38.  
94 JS1, para. 31.  
95 JS1, para. 32.  
96 JS1, para. 35.  
97 Ombudsman, p. 3, section on protection against discrimination.  
98 CoE-ECRI, CRI(2012)5, para. 74.  
99 STP, para. 2.  
100 CoE-ECRI, CRI(2012)5, para. 136.  
101 CoE-ECRI, CRI(2012)5, para. 135.  
102 CoE-ECRI, CRI(2012)5, para. 14.  
103 CoE-ECRI, CRI(2012)5, para. 78.  
104 CoE submission for the UPR of Montenegro, p. 2.  
105 CoE-ECRI, CRI(2012)5, para. 77.  
106 Ombudsman, p. 4, section on minority rights.  
107 CoE, submission for the UPR of Montenegro, p. 3.  
108 CoE, submission for the UPR of Montenegro, p.2.  
109 Ombudsman, p. 4, section on displaced persons.  
110 CoE-ECRI, CRI(2012)5, para. 62.  
111 CoE/ECRI, CRI(2012)5, para. 82.  
112 CoE-ECRI, CRI(2012)5, para. 62.  
113 CoE/ECRI, CRI(2012)5, para. 62.  
114 JS1, para. 16.  
115 JS1, para. 17.  
116 JS1, para. 21.  
117 Ombudsman, p. 4, AI, p. 4 and STP, paras. 3-4.  
118 JS1, para. 23.  
119 CoE/ECRI, CRI(2012)5, para. 6.  
120 CoE/ECRI, CRI(2012)5, para. 7. See also STP, para. 5.  
121 CoE/ECRI, CRI(2012)5, para. 9.  
122 Ombudsman, p. 5, section on environment.
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