



## **STRENGTHENING CAPACITIES OF CIVIL SOCIETY ORGANIZATIONS FOR PARTICIPATION IN UPR PROCESS**

### **SECOND UPR CYCLE IN MONTENEGRO**

**-cross section of UPR recommendations and key challenges in the implementation-**

**B | T | D The Balkan Trust for Democracy**  
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## Introduction

Universal Periodical Review (UPR) of human rights represents a relatively new instrument of monitoring human rights in member countries of the United Nations. UPR was created by the United Nations General Assembly Resolution 60/251 2006 and it has been applied since 2008. It was established with the aim to provide an efficient instrument of human rights monitoring, but also to exert additional pressure on member countries to provide efficient protection of human rights on a national level. During UPR cycle, which lasts four years, state of human rights is reviewed in all member countries of the UN. After every review the final report is made including recommendations the state should execute before the next cycle. Due to lack of capacities of the UN bodies to observe application of international standards of human rights directly in one country, a role of nongovernmental organizations in UPR process is very significant, especially in the area of monitoring implementation of UPR recommendations and advocating efficient human rights protection.

This year Montenegro presented the second National Report on the State of Human Rights in Montenegro on the 15<sup>th</sup> conference of the Human Rights Council in Geneva held on 28<sup>th</sup> January. The report was prepared in accordance with the guidelines of The Human Rights Council A/HRC/DEC/17/119 and it contains the review of state of human rights in Montenegro in the period between two UPR cycles (2008 – 2012). The final Report on state of human rights in Montenegro was adopted on plenary session of the Human Rights Council held on 7<sup>th</sup> June in Geneva. The report contains recommendations by countries which participated in the interactive dialogue and which represent the basis for further evaluation of progress of Montenegro in the area of promotion and protection of human rights. Montenegro accepted 121 out of 124 recommendations it got, three recommendations were not accepted, whereas one was partially accepted. The recommendations mainly refer to enforcement of law and strategic documents, as a difference from the last UPR cycle when recommendations mostly referred to passing laws in the area of human rights protection.

This report represents the result of work of the coalition of nongovernmental organizations gathered around the project *Strengthening capacities of human rights organizations for participation in UPR process* implemented by Center for democracy and human rights (CEDEM) and Civic Alliance (GA). Besides these two organizations, Center for Children's Rights in Montenegro, Women's Rights Center, Center for Roma people initiatives, Union of Associations of Paraplegics of Montenegro and MoGul are also members of UPR Coalition in Montenegro. The report offers an insight into results and course of UPR process in Montenegro, especially into recommendations of the Human Rights Council which arose during the second UPR cycle and which will be the object of further monitoring by the coalition. Apart from offering a cross section of the situation in the areas UPR recommendations refer to, the aim of the report is also to contribute to higher interest of civil sector for participation in UPR process.

The report is based on findings of projects on monitoring human rights realized by members of UPR coalition, but also on their experience and observations during direct work with victims of violation of human rights, as well as on data, conclusions and evaluation of the state of human rights in Montenegro, presented in the annual and also in special reports by state administration bodies, independent institutions and jurisdictional bodies. If you want to read more about UPR process and documents passed so far, you can visit <http://www.gamn.org/upr/>.

We use this opportunity to thank all the participants in the project and preparation of the publication, as well as the Ministry of Foreign Affairs and European Integrations which coordinates UPR in Montenegro and all other organizations which are involved in this process and showed their readiness for cooperation and accepting the attitudes of UPR Coalition members. We are especially thankful to **The Balkan Trust for Democracy (BTD)**, which recognized the importance of UPR process in Montenegro and supported strengthening of civil society organizations.

**Podgorica, October 2013**

**Civic Alliance**

## Action against impunity (recommendations 119.13, 118.11, 117.62)

*UPR recommendations in this area refer to guarantees about victims' rights to truth, justice, indemnity and non recurrence, especially through taking measures to abolish impunity and bring justice for all presumed offenders in accordance with law and international standards.*

Relationship between the state and relevant institutions has been passive in the process of facing the past so far. We have waited for long for investigations of war crimes committed on the territory of Montenegro to start. When the investigations were initiated, they were conducted slowly, and only direct perpetrators were included in the court proceedings. The prosecutor's office did not pose a question of command responsibility, which first of all, implies superior responsibility, because they did not do anything to prevent crimes they must have known about. Investigations and court proceedings which have been conducted so far, did not include responsible individuals in a line of command or ordering parties of these crimes, and it was recorded in the latest Report on progress prepared by the European Commission.

Not a single condemning decree absolute was passed for four cases of war crimes committed on the territory of Montenegro – torture, the persecution on religious basis, destruction of religious objects and private property, then, illegal arrests and deportations committed on the territory of Montenegro. Besides, the prosecutor's office has not investigated allegations and circumstances referring to the attack on Dubrovnik.

It is necessary that Montenegro guarantees victims' rights to truth, justice, indemnity and non recurrence, especially through taking measures to abolish impunity and bring justice for all presumed offenders in accordance with law and international standards.

## National institutions for human rights /Torture (recommendations 117.1 – 117.7)

*UPR recommendations in this area refer to providing additional resources for quick establishment of a national mechanism for prevention of torture with characteristics included in Optional protocol of Convention against torture OP-CAT and integration of Protocol from Istanbul in employees' training how to act in cases of torture and other forms of inhumane and humiliating treatment.*

The biggest shortcomings identified in this area refer to the cases of torture where relevant state institutions did not conduct quick, efficient and effective investigations in order to penalize all violators of human rights. Relevant institutions, first of all state prosecutor's office, did not investigate quickly, efficiently and effectively all the allegations of violation of human rights by police officers. Ministry of the Interior has initiated the practice of suspension of officers, until termination of the proceedings, who criminal proceedings for serious violation of human rights have been instituted against, which was not the case in the previous period. However, there are police officers who still have not been removed from their positions, although a number of complaints and criminal charges were instituted against them, and against some of them, a number of condemning decree absolutes for maltreatment had been passed earlier.

GA, recorded **179** reported cases of maltreatment and inhumane treatment by police officers in the period from 2006 and July 2012. Out of this number of cases, according to GA, 76 criminal charges were brought against violators, and other cases were most often reported to media which informed the public and these allegations were also available to the prosecutor's office.

It was recorded, in the second periodical report of the government submitted to the European Committee for the prevention of torture in October 2012, that according to the charges for **torture** in the period 2009 –

2012, **51** cases of torture which police officers were suspected of were processed in national courts, 22 verdicts of guilty were passed that is, 18 conditional sentences and 4 penalties of imprisonment lasting from 3 to 6 months.

It is recorded in the same report that **24** officers were disciplinary punished by police authorities for exceeding their powers. All punishments ranged from 20 to 30 % decrease of salary for one month, except in one case when the police officer was dismissed.

GA also recorded that there were police officers who had been validly convicted of torture couple of times. In one case, as Department for internal control of police work confirmed, a police officer had been validly convicted twice and new criminal proceedings were recorded after that, and the police officer was still not dismissed from service. There was also no issue of responsibility of police chiefs who did not obey the Police Law which orders that officers validly convicted of criminal acts have to be dismissed.

It is necessary to conduct urgent, independent and efficient investigations for allegations of severe violation of human rights by police officers, in accordance with recommendations of the Committee for prevention of torture, which orders that investigations must not be delayed longer than 15 months. It is also necessary for police officers, prosecutors and judges to have continuous training and to provide adequate and consistent penalizing of all torture perpetrators, since one probation and 20% decrease of one salary, which is dominant now, will not contribute to the efficient prevention of this phenomenon. Every police officer who was validly convicted of violation of human rights has to be excluded from the service.

### **Center for Democracy and Human Rights - CEDEM**

#### **Reform of jurisdiction (recommendations 117.52 – 117.58)**

*UPR recommendations in this area refer to further implementation of reform of jurisdiction, especially to providing political, functional and financial independence of jurisdiction and consistent implementation of laws and strategic documents referring to organization and work of jurisdictional bodies, strengthening of responsibility standards as well as integrity in jurisdiction, and therefore efficient action against corruption.*

#### **Position and organization of jurisdiction**

Despite recent changes of the Constitution and laws, guarantees for political and financial independence of judiciary, prosecutor's office, Constitutional court and Protector of human rights and freedoms were not provided. There is also a possibility of political engagement, that is of some other conflict of interest of members of Judicial Council, who are either respectable lawyers or judges of the Constitutional court, that is members of the Prosecutor Council. The Constitution does not regulate either structure of Prosecutor Council or the way its members are chosen. Besides, legal changes referring to adjustment with constitutional changes were done without public discussion and participation of interested public. Precise measures (parameters) for evaluation of criteria and subcriteria for election of judges and the president of the court, as well as for regular evaluation of their work were not provided either. Minister of justice still has the right to vote in proceedings for suspending judges in the scope of his work in Judicial Council. It is necessary to provide, by further legal changes, **independence and impartiality of members** of Judicial and Prosecutor Councils, but also of the Constitutional court judges, in respect of conditions and parameters for evaluation of criteria for their election, and also prevention of conflict of interest.

## Efficiency, publicity and transparency of jurisdictional bodies work

In comparison with the first UPR cycle, there is some progress in the area of constitutional and legal frames which regulate organization and work of jurisdiction, as well as in the areas of improvement of technical conditions for work of jurisdiction, but also in the area of efficiency and transparency of jurisdiction through reduction of number of proceedings before the court, obeying the principle of publicity of parties and establishing court portal and jurisdictional information system. However, publicity of courts and Judicial council work is still characterized by selective announcing of decisions and uneven court practice, especially when we talk about court decisions in the cases of war crimes and announcing decisions of Judicial Council related to disciplinary accountability. Although the number of cases before the court is significantly decreased, special attention should be devoted to **analysis of reasons for abolishing court verdicts**, especially the cases from the area of organized crime and war crimes, and also to giving effect to the judgement and **making judicial practice uniform**, what partly can be done by meritory decisions of higher court instances.

## Access to justice

Although some measures were taken in the area of adjustment of national legislation with international and European standards of fair trial, first of all, by changes in criminal material legislation and procedural legislation and adoption of Law on free of charge legal help, observance of the right to fair trial is not provided sufficiently in practice, especially in the area of conducting efficient investigations in cases of violation of human rights, but also protection of right to efficient legal recourse and trial within reasonable period of time. It is necessary to provide guarantees of effectiveness and efficiency of constitutional appeal in order to enable Constitutional court to come to a decision on constitutional appeal before all legal recourses are exhausted, in cases when it is obvious that irreclaimable consequences for appealing party may occur if the opposite is decided.

High proprietary census, then the fact that institution of free of charge legal aid can be used neither in all proceedings about **rights and responsibilities of citizens**, nor before all bodies of public authority (for example in administrative procedure) influence efficient approach to the court. In connection with this, it is necessary to include all kinds of proceedings related to rights and responsibilities of citizens in the Law on free of charge legal aid and predict lending legal assistance in cases when it is **in the interest of justice**, and fulfilment of these conditions should be assessed by importance of the cases for the applicants, factual and legal complexity of a case and other standards developed through practice of the European Court.

## Protection of LGBT population rights (recommendations 117.33 – 117.37, 118.8)

*UPR recommendations in this area refer to changes of legislative which are necessary to be made in order to ensure efficient protection of LGBT population, especially through incrimination of all kinds of discrimination based on sexual orientation and gender identity. Besides, these recommendations also refer to efficient application of anti-discriminatory legislative in relation to LGBT population, especially in respect to proceedings related to violation of rights of LGBT population and strengthening dialogues with defence attorneys for human rights and LGBT community.*

In relation to the previous UPR cycle certain progress has been made in the area of the status of LGBT community and rising consciousness about their rights and freedoms. Strategy for improvement of quality of life of LGBT population was adopted for the period 2013 – 2018, as well as amendments of criminal legislative in regard with introducing prohibition of conducting a propaganda campaign of hatred or intolerance on the basis of sexual orientation and gender identity; prohibition of encouraging racial or other kind of discrimination and ordering stricter penalties for perpetrators of criminal offences committed out of

hatred of LGBT individuals. *The first parade of pride in Montenegro* was organized on 24<sup>th</sup> July this year, and the second on 20<sup>th</sup> October. Representatives of LGBT community, nongovernmental organizations, Ministries for human rights and rights of minorities, office of Protector of human rights and freedoms, international organizations, political parties and media took part in the parades. Despite this already mentioned progress, proceedings of cases of violence and discrimination against LGBT individuals has not been efficient yet, since the ones who attacked participants of the first parade of pride have not been convicted yet. Connected with this, it is necessary to provide **effective and consistent application of strategies and laws** referring to protection of rights of LGBT population and initiate activities related to **incrimination of breach of right to freedom of expression** of gender identity and sexual orientation, that is, of compulsion of expressing gender identity and sexual orientation.

## **MOGUL**

### **Action against corruption (recommendations 117.58 – 117.61)**

*UPR recommendations in this area refer to continuation of struggle against corruption through efficient and consistent implementation of regulations referring to prevention and proceeding of cases of corruption, especially on the local level, in order to avoid local interpretation of standards and practices in control and penalising cases of corruption and to provide uniform enforcement of relevant regulations.*

Struggle against corruption represents one of key priorities for establishing transparent, professional and responsible public administration and fulfilment of conditions for joining the European Union. Despite numerous challenges, legislative and institutional frame for struggle against corruption is gradually being formed, but lack of clear political will and readiness to start solving this problem in its essence on all levels is still obvious.

Due to a long process of democratic transition and consolidation, then unity of authorities, that is control of all segments of authorities which have to be autonomous from executive power and informal centres of power as well, there is a clear risk of system corruption arising. Widespread nepotism, insufficient prevention and penalizing of conflict of interest contribute to these tendencies, especially in the area of funding political parties and lack of decree absolutes for corruption on a high level. Corruption in Montenegro is highly present in public health service, police, customs, jurisdictional bodies, but also in the areas of privatization, public purchases, urbanism, construction, as well as in the areas of using coastal resources and “drawing out” of financial means from public corporations. Complaints related to the existence of political corruption in the area of finding employment are getting stronger during election campaigns, what was shown in the affair “Recording” which was included in Report on progress of Montenegro from this year.

Wide legal frame, insufficient coordination among bodies responsible for discovering and processing cases of corruption, then insufficient efficiency of the existing anti-corruption procedures and mechanisms, represent key obstacles in the struggle against corruption. In order to realize sustainable and essential results in this area, it is necessary to conduct thorough reform of jurisdiction and provide efficient and consistent processing of cases of corruption, and also provide higher degree of protection of people who report corruption, that is “whistlers”.

## **Center for Children's Rights of Montenegro**

**Children's rights (recommendations 117.12-117.15,117.17 – 117.18, 118.2 – 118.5, 118.10, 119.9)**

*UPR recommendations in this area refer to coordination and management of public policies towards*

*children in Montenegro; further coordination of laws with standards regulated by UN Convention on Children's Rights with the accent on explicit prohibition of physical punishment; ratification of the Third Optional Protocol with the Convention, but also on continuation of efforts in the field of strengthening capacities of social service providers and civil services which deal with cases where children are included.*

Center for Children's Rights of Montenegro in cooperation with informal coalition of nongovernmental organizations had the opportunity to inform Human Rights Committee on respecting children's rights using a relatively new instrument such UPR is. In the part referring to children, Montenegro received around 40 recommendations in this UPR cycle, which, besides other things, refer to adoption of a new National plan for children, and also to strengthening capacities of the Council for children's rights and a role of deputy Ombudsman for children's rights.

### **National action plan for children**

In accordance with recommendations of Human Rights Committee and Children's Rights Committee, in June the government of Montenegro adopted a strategic document which defines general policy of the country towards children for the period 2013 - 2017. This document identifies basic problems in realization, protection and promotion of children's rights in our country, as well as basic directions for further activities in order to find solutions to their problems. What should be especially emphasized is that the plan is workable and directed to action, and the **principle of participativity** was respected in the process of making this plan. **Consultations with children** were conducted for requirements of the plan, as well as additional external consultations with various interested parties. National action plan for children defined mechanisms of monitoring the plan implementation and expenditure of planned means.

### **Council for children's rights**

In 2007 the Government of Montenegro formed **Council for Children's Rights** with the basic aims to: monitor implementation of National action plan for children; protect and improve children's rights; monitor enforcement of regulations; monitor fulfilment of obligations of Montenegro which result from Convention on Children's Rights and other international documents; initiate innovation of the existing and passing new regulations; improves cooperation with local authorities in the process of implementation and protection of children's rights; inform the public about children's rights and their application. The Council cooperated with UN agencies and other international organizations dealing with children's rights protection.

Despite the importance and numerous functions of the Council for Children's Rights, the government of Montenegro reached a decision about dissolution of the previous assembly of the Council, so that the new Council for Children's Rights will be formed by Ministry of labour and social security. In practice, it means that the Council will not work on the level of the Government, but as an **advisory body** of Ministry of labour and social security.

We think that it was necessary to **provide expert and technical support** to the initial Council through formation of a working group which would prepare analyses, necessary materials and reports on implementation of all policies referring to children. In this way, the Council, as a governmental body, could perform high quality work on improvement of the existing policies. We also think that it is necessary to **improve consultations of the Council for Children's Rights with children** by talking to their representatives who are members of the Council.

### **Strengthening of institution of the Protector**



In the part referring to the area of children's rights protection, the latest information talks about certain **strengthening of capacities and human resources** in the office of Human Rights and Freedoms Protector, as an independent institution for human rights protection, and in that sense children's rights. Deputy of Human Rights and Freedoms Protector for children's rights is elected in the Parliament of Montenegro, and his/her mandate is explicitly defined by Act of systematization of work positions in the institution of Protector. Besides a deputy of the Human Rights and Freedoms Protector, there are, for children's rights, one full time councilor and one councilor engaged on the contract. Besides regular work based on complaints, deputy of Human Rights and Freedoms Protector is, together with his associates, active in different areas from children's rights domain, such as promotion, workshops on children's rights, different projects, campaigns, publications, etc.

### **Coordination of the laws with standards regulated by UN Convention on children's rights**

We think that our norms are widely defined and that intention of the recommendations received from the Committee is to forbid, clearly and unambiguously by legal texts, corporal punishment in relation parent - child and teacher – child as an unacceptable method of upbringing children. Since 1979, 18 European countries have, by law, forbidden corporal punishment of children. We hope that Montenegro will accede to changes of the law which will explicitly forbid corporal punishment of children in every environment and start a media campaign about consequences of corporal punishment of children.

### **The third optional protocol on communication procedures in appellate proceedings**

Instrument of ratification of the Third optional protocol in addition to Convention on children's rights has been handed in to the depositor in Geneva. In this way we replied to the recommendation to ratify the First optional protocol an addition to this convention. The protocol is supposed to ensure **the possibility of appellate proceedings** for children **on international level** when all legal recourses on the level of national juridical system are exhausted.

### **Strengthening capacities of social service providers and civil servants**

Passing new Law on social and children's protection represents basis for intensifying expert consultations, as well as education in the field of strengthening capacities of social service providers and civil servants, especially in the area of **protection of children without parental care and promotion of foster parenthood** as an alternative form of taking care of children without parental care.

### **Association of Paraplegics of Montenegro**

### **Protection of rights of the disabled (recommendations 117.72 – 117.77)**

*UPR recommendations in this area refer to promotion of rights of the disabled, action against their exclusion and discrimination; ensuring access to information; as well as to implementation of measures in regard to improvement of conditions for realisation and protection of their rights, with special attention paid to their education. Rights of the disabled are also recognised in recommendations related to protection of vulnerable groups and in those which refer to strengthening institutional structures and measures for full*

*implementation of ratified international instruments, enabling enjoyment of human rights for the vulnerable groups and also in recommendations regarding equality and nondiscrimination.*

When we talk about protection of rights of the disabled, it should be emphasised that in recent years Montenegro confirmed numerous conventions, such as **UN Convention on rights of the disabled**, ratified by Montenegro on 15<sup>th</sup> July 2009, and adopted lots of strategies, laws, rule books and other regulations aimed at promotion and protection of rights of the disabled. The instituted laws are mostly coordinated with relevant international standards in this area, and in that way they represent good basis for their implementation, with the aim to treat the disabled as rightful members of society who on the basis of equal possibilities contribute to development of their community.

### **Access to public buildings, information and services**

Despite significant normative changes, there is still a lack of **efficient and consistent enforcement** of adopted enactments in practice. In this way Montenegro still remains inaccessible to the disabled, although accessibility is a key prerequisite for satisfying their basic needs and their social integration. When we talk about accesibility to the disabled, people usually think of **physical access to buildings**, whereas access to public services, such as access to public service vehicles (there is not a single bus or a taxi car accessible to the people in wheelchairs in Montenegro), then access to information and communications, including public TV services and internet (most information which is presented in printed form is not accessible to people with visual impairment, since they are not printed in Braille, and due to a lack of a text synchronisation device and sign language interpreters, a lot of information and services are not accessible to people with hearing impairment), as well as access to services in the area of education, employment, social and children's protection, is neglected and put in the background. The example of flagrant infringement of rules is enforcement of Law on space arrangement and object building from 2008, which orders time limit of five yeras (which expired in August 2013) to adapt the objects to standards of accesibility to the disabled. The other example is enforcement of the Action plan for adaptation of objects in public use which was established in accordance with article 165 of Law on space arrangement and object building. Despite clear legal obligation, only **small number of objects** previously built is completely **adapted to these standards**, whereas most new objects which are being built satisfy only some of the elements of accesibility.

Special emphasis should be given to the fact that consciousness to view the problem of accesibility as the issue of human rights of the disabled and a key segment of a society based on equality without discrimination still does not exist. These are the reasons why organizations of the disabled are still compeled to conduct campaigns and initiatives for **creation of accessible environment**. Besides, inefficient implementation of public policies leads to exclusion and discrimination of this category of people and therefore it is necessary to **strengthen consciousness of jurisdictional institutions** about rights of the disabled, as well as to adequately apply **criminal provisions** anticipated by legal prescriptions.

Besides, in the future period it is also necessary to continue coordination of national regulations with ratified UN Convention on rights of the disabled, and other positive international acts with the aim to monitor implementation of the already established regulations and to continue raising consciousness of the disabled with the aim to inform them about their rights. Organizations of the disabled should participate as much as they can in working groups, councils and other bodies for creating, implementation and monitoring of relevant public policies in order to ensure **effective and practical application** of the adopted measures.

### **Strategy for integration of the disabled**

Strategy for implementation of the disabled for the period from 2008–2016 represents a long-term strategic plan of action of all social actors in Montenegro involved in strengthening social integration of the disabled. This document includes areas of health care, social protection and retirement and disability insurance, education, professional training and employment, accessibility, culture, sports and recreation, as well as a status of organizations of the disabled in a civil society. The strategy also implies adoption of action plans every two years. These action plans define **priority measures and directions** which should be applied in order to improve position of the disabled. Adequate inclusion of the disabled in social integrations is not possible without executing directives from the Strategy for integration of the disabled and without efficient implementation of the adopted laws.

In relation to inclusion of the disabled in the area of education, it is obvious that it is necessary to create conditions which would provide education on equal terms (*accessibility of schools, adaptability of space, adequate equipment and teaching aids, systems of support – teaching assistants, mobile services, adapted methods of work and good quality training of teaching staff*) **with the aim to create equal rights for everyone.**

When we talk about employment of the disabled, at the moment the situation is characterised by a fact that employers, despite the benefits provided by state, rather decide to pay into Fund for professional rehabilitation and employment of the disabled than to employ the disabled person. This is why it is necessary to continue **strengthening and promoting incentive measures for employment** of this population. The state should act as an example to other employees through larger number of disabled individuals the state employs.

### **Center for Roma initiative**

#### **Minorities and Roma people (recommendations 117.78 – 117.88)**

*UPR recommendations in this area refer to improvement of access of ethnic, religious and political minorities, especially Roma people and Egyptians, to education, health care, judicature, property and public positions; to complete integration of Roma population and other minorities; as well as to effective struggle against discrimination of minorities, especially Roma people and strengthening of instruments for protection and promotion of minorities.*

### **Position of Roma and Egyptian communities**

According to the last census in Montenegro from 2011, 8 305 members of Roma and Egyptian minorities, 51.12% males and 48.88% females, live in Montenegro. Roma and Egyptian populations are among the poorest and the most imperiled minorities in Montenegro, including living, education, health care, right to employment, cultural and political life. Rate of poverty in Montenegro is estimated on 11.3% in 2005/6 and it is mostly present among Roma and Egyptian populations – 4.5 times bigger than the national rate of poverty, which means that almost every second Roma family lives under the poverty line.

Despite improvement of a trend of education, employment, health, living, as well as prevention and penalizing family violence, two years before the end of international initiative *Decade of Roma people 2005 – 2015*, this population is still excluded from main social processes in Montenegro. Roma people and Egyptians are still facing wide-spread discrimination and denial of their rights, as well as poverty, especially high rate of illiteracy, low level of employment and inadequate housing conditions. Those problems are also confirmed by the Report on progress to EU for Montenegro for 2012: *Some progress has been achieved in inclusion of Roma, Ashkali and Egyptian minorities, especially when we talk about registration of displaced persons from these minority groups in record books. In April 2012, the Government adopted strategy for the*

period 2012-2016 and the accompanying action plan; **their enforcement is slow**. Some legal actions are taken in the area of facilitating access to education and employment. Rates of leaving schools and unemployment remain high, especially when we talk about women.

## **Normative frame**

Legislative frame for improvement of status of Roma and Egyptian populations in Montenegro is relatively coordinated with international standards, but their adequate implementation is missing. Montenegro is still facing serious challenges when we talk about progress in the area of gender equality and social discrimination of marginalized and discriminated social groups, such as Roma and Egyptian communities, especially female members of these populations. Reports of the European Commission on progress of Montenegro regularly point out to discrimination of Roma people and Egyptians, as well as to multiple discrimination of female members of Roma and Egyptian communities.

Roma and Egyptian populations still represent the only national minorities not mentioned in the highest legal act in Montenegro – the Constitution of Montenegro, whereas articles 23 and 24 of the Law on minorities rights and freedoms from 2006 which guarantee seats in the Parliament for the minorities, were declared as not constitutional. Possibilities of **realization of rights to political representation** are in this way practically limited for this national community.

Legal solutions and strategic documents which Montenegro has at the moment and which deal with position of women from Roma and Egyptian communities are Strategy for improvement of status of Roma people and Egyptians in Montenegro 2012 – 2016 (a female representative of the Center for Roma initiative participated in its creation, whereas one Roma and one Egyptian female activist, a member of the government Commission monitored its implementation); then Plan of activities for realization of gender equality 2013 – 2017. However, these documents, as most laws, only exist in legal system, without efficient application.

## **Discrimination**

According to survey of discrimination of minorities and marginalized social groups which Center for democracy and human rights - CEDEM conducted in June 2011, a degree of discrimination of Roma and Egyptian communities in Montenegro is 63.3%. According to a survey of discrimination of Roma people by all criteria, in comparison with other minorities and marginalized social groups in Montenegro, discrimination of Roma people in the area of employment is 76.8%, access and treatment in health care institutions 45.4%, access to education 52.7% and in treatment during court proceedings discrimination degree is 39.2%. **Status of women from Roma and Egyptian community is especially difficult**, because they suffer double discrimination – as women within a community and as members of Roma, that is Egyptian minority in a society where other nation is majority.

## **Juvenile and arranged marriages**

Marrying under-age girls and arranged marriages are still a part of everyday life in Roma and Egyptian communities, but at the same time one of the most drastic forms of violation of human rights. Due to strong patriarchy and devotion to negative aspects of tradition which rule within this community, rights of women and children from this community are threatened in many ways. Namely, parents stop regular primary education of female children, usually in the fourth or the fifth grade, in order to prepare them for the arranged marriage, whereas male children have the obligation to work and contribute to household budget.

## **Education**

Despite some progress in inclusion of children from Roma and Egyptian population in educational system, enforcement of the Law on primary education is still not efficient when we talk about Roma and Egyptian children. According to the last census from 2011, out of total number of children at the age for school 95 % attended it, whereas in Roma and Egyptian population percentage of children who attended primary school is drastically lower (51%, that is 54 % respectively). According to the data of *Study of obstacles to education in Montenegro*, presented by UNICEF office in Montenegro in June this year, inclusion of children from Roma and Egyptian population in a system of compulsory education is hardly bigger than a half of the total number of children of primary school age. In connection with this, it is necessary to put additional effort in order to enhance inclusion of Roma children in education, and also ensure quality of educational achievements of those who are in educational system, through regular and timely providing of teaching aids and scholarships, systematic solutions of a problem of the issue of teaching assistants, as well as through regular monitoring and evaluation of educational achievements of pupils from Roma and Egyptian populations.

### **Center for women's rights**

#### **Gender equality and women's rights (recommendations 117.25 – 117.50)**

*UPR recommendations in this area refer to strengthening of activities in a struggle against discrimination and negative attitudes towards women, including Roma and migrant women; fostering of economic position of women and their participation in political life and reaching decisions; efficient protection of women and children from all forms of violence; establishing mechanisms for monitoring the number and the scope of cases of abuse; assigning adequate human and financial resources for full implementation of Strategy for protection from domestic violence; strengthening efforts with the aim to decrease and eliminate violence, abuse, sexual exploitation and sexual violence and trafficking of women and children and providing adequate care and protection of victims; effective investigation of all reported cases of domestic violence, sexual violence and trafficking of women and girls, as well as instituting proceedings against perpetrators and passing a sentence proportional to a committed criminal act.*

#### **Participation of women in political life and places of decision**

Despite introduction of a quota system for a less represented gender in Montenegrin legislative in 2011, percentage of participation of women in representative bodies and places of decision is among the lowest in Europe - only 16 % in the Parliament of Montenegro, and only three female ministers in the government of Montenegro. Only one woman is a president of a municipality, out of total of 21 municipalities in Montenegro, whereas participation of women in members of the parliament is 14%. What is obvious is a political tendency not to have a single woman in parliamentary committees (Constitutional Committee, Committee for safety and defence, Committee for economy, finance and budget, Committee for anticorruption and Commission for monitoring and control of a procedure of privatization) and the president and vicepresidents of the Parliament are men.

On the occasion of adoption of the current Law on election of members of parliament and committee members<sup>1</sup>, in September 2011, amendment proposal to have one person of a less represented gender among three candidates on election list, starting from the first to the third candidate, from the fourth to the sixth, and so on, which was the only way to guarantee the essential change when we talk about **bigger political participation of women**, was not adopted. Instead of the already mentioned amendment, the

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<sup>1</sup>Law on changes and amendments of the Law on election of members of the parliament and committee members "Official Gazette of Montenegro, number 46/2011" from 16<sup>th</sup> September 2011.

current law anticipated obligation of political parties to nominate not fewer than 30 % of women on election lists. However, majority of parties fulfilled only formal obligation, assigning positions of a lower rank on election lists to women, without the possibility to elect 30% of nominated women to representative bodies.

The Collegiate body of the Parliament of Montenegro decided, on 11<sup>th</sup> June 2013, to form **Working group for development of confidence in election process** with the aim to, among other things, change the current Law on election of members of the Parliament and committee members. Bearing in mind that the current law did not succeed in providing equal representation of women and men in political life, it is necessary to **adopt proposal to change the current law which will ensure to have at least one woman in each group of three candidates on election lists of political parties**<sup>2</sup>.

## Violence against women

Violence against women and domestic violence, as well as other forms of gender based violence, such as economic violence against women, still represent a big social problem followed by lenient penitentiary policy, inadequate institutional response and inefficient protection of victims. Efficient implementation of Strategy for control of domestic violence 2011- 2015 is missing, and **Commission for monitoring Strategy application** has had only one meeting with no significant results since its foundation in February 2012. Multidisciplinary mechanisms for protection from domestic violence do not function in accordance with the Protocol on institutional actions in cases of domestic violence, and also there is not subordinate legislation regulating their work and competence. Efficient monitoring of application of measures of protection from domestic violence has not been established yet. Required working positions within units for control of domestic violence, such as specialized employees for protection from domestic violence, have not been classified by newly-adopted Regulation of internal organization and systematization of the Ministry of the interior of Montenegro, and that job is still being performed by officials on duty in the scope of their regular work. In practice, it is obvious that employees of the Centre for social work neglect to, in accordance with legal duties, report a suspicion of domestic violence after direct finding out of such a case. Bearing in mind that all the cases of domestic violence are by its nature urgent, especially if children are involved, omission of report on a suspicion of violence causes concern about cases of domestic violence not having an adequate treatment and not being in accordance with legal solutions.

Women's non-governmental organizations point out to the problem of a steady practice of centres for social work on realizing right of a person who committed violence to see his child or get custody. These situations seriously threaten security and safety of a victim and her children or creates a risky situation for them. Namely, in cases of **intimate partner violence** when children are witnesses, centres for social work, as a rule, insist on obligatory contacts between a violent parent and a child, most often without professional supervision, not taking into account consequences and risk of that contact sufficiently.

Structure of employees in centres for social work is also inadequate – out of 290 employees, 55,9% are expert associates, 44,1% administrative and technical workers, whereas share of other professions is extremely low, because only every third employee of a center for social work is actually trained for direct work with people with the aim to offer them help<sup>3</sup>. This is especially worrying because the courts rely on anamnesis of a center for social work to a great extent when they make decisions of the most

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<sup>2</sup> The initiative for adoption of the already mentioned legislative proposal to change the current Law on election of committee members and members of the parliament, was started by the Protector of human rights and freedoms, 18 nongovernmental organizations, as well as by political parties Positive Montenegro and Socialist People's Party.

<sup>3</sup> Ministry of work and social care "Information on conducting Strategy for protection from domestic violence for 2012" from 18th March 2013.

influence for a family (*for example, contacts between parents and children; making decision about custody*), and very often these anamneses are accepted completely.

**Free national SOS phone line for victims of violence** has not been established, and financing of a support and help service for victims and witnesses of violence by the state is minimal and provided mostly by nongovernmental organizations financed on a project basis and which due to lack of so-called gender budgeting depend on donations by international organizations.

It is necessary to ensure **efficient implementation of Strategy for protection from domestic violence** and Protocol on institutional actions in cases of domestic violence; regularly monitor and evaluate the undertaken measures; **ensure urgency in actions** of jurisdictional bodies in cases of domestic violence; **provide financial means for functioning of a support service** for women and children who are victims of domestic violence, **strengthen capacities of centres for social work** and capacities of other institutions for understanding a phenomenon of violence and its consequences.