



*Crna Gora*

*Ministarstvo rada i socijalnog staranja*

***55. Committee for the Rights of the Child  
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***Opening address by Minister of Labour and Social Care, Suad Numanovic***

*Chairman,*

*Your excellencies,*

*Members of the Committee,*

On behalf of the Government of Montenegro, our delegation and my own behalf, I would like to thank you for welcoming us here. I am confident that we will have a constructive dialogue today on Montenegro's initial reports on the implementation of the Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

Following the restoration of independence and membership in all relevant international organisations, Montenegro submitted on 23 October 2006 a succession declaration for the set of United Nations conventions deposited with the Secretary-General of the United Nations that Serbia and Montenegro was a party to considering that the Constitutional Charter, as the supreme legal act of the former State Union of Serbia and Montenegro, sets out that the state member which secedes forfeits any rights to political and legal continuity of the federation.

Independent Montenegro's first Constitution adopted on 19 October 2007 sets out that Montenegro is an independent, sovereign state, with a republican system of government. Montenegro is a civic, democratic, ecological and welfare state, based on the rule of law. The Constitution recognizes the principle of supremacy of international law and sets out that "The ratified and published international agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have the supremacy over the national legislation and shall be directly applicable when they regulate the relations differently from the internal legislation."

Montenegro adopted the Convention on the Rights of the Child and both of its Protocols. By adopting this Convention, Montenegro undertook to submit to the Committee for the Rights of the Child the reports to outline the measures the country has taken to implement the Convention and ensure that the guaranteed child rights are observed. To that end, Montenegro



developed the initial report on the implementation of the Convention on the Rights of the Child for 2006-2008, which it submitted to the Committee on 23 November 2008, as well as the reports on the implementation of the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict and Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, both of which were submitted on 2 June 2009.

The reports before us were produced by the interagency working group based on the information submitted by the institutions with remits in specific areas of child rights protection and promotion. The reports extend to include an outline of Montenegro's legal system in the field of child protection and of how their current and development needs are met, in line with the principles of the Convention on the Rights of the Child.

The Constitution general provisions set out that Montenegro shall guarantee and protect the rights and freedoms and that everyone shall respect the rights and freedoms of others and thereby of children. Everyone is equal before the law, irrespective of any particularity or personal property. The Constitution guarantees to everyone the right to respect for private and family life. Under the Constitution, the family shall enjoy special protection. Parents shall care for their children and support their personal and educational development. Children shall care for their parents in need of assistance. Children born out of wedlock shall be entitled to the same rights and responsibilities as children born in marriage. Mother and child shall enjoy special protection. The State shall put appropriate conditions in place to encourage childbirth. The child shall enjoy the rights and freedoms appropriate to their age and maturity. The child shall be guaranteed special protection from psychological, physical, economic and any other exploitation or abuse.

The Constitution guarantees the right to education under equal conditions. Primary education shall be compulsory and free of charge.

The Constitution guarantees everyone the right to health care. The child, a pregnant woman, an elderly person and a person with a disability shall enjoy the right to publicly funded health care provided they do not exercise this right on some other grounds.

The Constitution recognizes the conscientious objection right. No one shall be obliged, contrary to their own religion or conviction, to fulfil a military or other duty involving the use of arms.

Under the Constitution, members of minorities and other minority national communities shall enjoy, *inter alia*, the right to use their own language and alphabet in private, public and official use; the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of members of minorities and other minority national communities; the right to use and have their name written in the official documents in their own language and alphabet; the right to information in their own language.

The Convention provisions served as the starting point for Montenegro's legal system reform, particularly with regard to development of new legislation governing family relations, social and child care, education, health, labour relations, and criminal law. Among these reform efforts, particularly valuable is the passage of the new Family Act on 1 January 2007. It contains a section specially devoted to the child's rights and special procedural provisions on the protection and exercise of these rights before the court. The Protection Against Family Violence Act is now in effect, while drafting is now underway of the Juvenile



Justice Act and the Act Amending the Protector of Human Rights and Freedoms Act, which will set out special procedural rules to be applied by the Protector for the Rights of the Child.

Action is taken to raise awareness among children and adults of the Convention underlying principles. Seminars, round tables and workshops are organized, especially for educational and social services staff, where they are informed about the importance of the Convention and modern methodologies for dissemination of knowledge on the child's rights and duties. Books and brochures on the child's rights have been developed specially for children and written in a language that is meaningful to them. Some action has already started in electronic and print media towards mass dissemination among both children and adults of information on the Convention. Considerable contribution to the Convention implementation is given by the non-governmental organizations.

The Government has developed a number of strategies and action plans across a range of different fields important for the exercise and protection of the child's rights. These include: the Development and Poverty Reduction Strategy (2003-2007); the National Action Plan for Children (2004-2010); the National Programme to Prevent Unacceptable Behaviour of Children and Adults in Montenegro (2004-2006); the Strategy for Permanent Solution of the Status of Refugees and Internally Displaced Persons in Montenegro (2005-2008); the National Action Plan for "Roma Inclusion Decade 2005-2015" in Montenegro; the Poverty Alleviation and Social Inclusion Strategy (2007-2011); the Strategy for Improvement of the Status of RAE population in Montenegro (2008-2012); the Strategy for Development of the Social and Child Protection System in Montenegro (2008-2012); the Strategy of the Social Protection of the Elderly in Montenegro (2008-2012); the Strategy for Inclusion of the Persons with Disabilities in Montenegro (2008-2016); the Action Plan for Integration of Persons with Disabilities in Montenegro (2008-2009); the Strategy on Inclusive Education in Montenegro (2008-2012); the National Strategic Response to Substance Abuse (2008-2012), and the Action Plan for implementation of the National Strategic Response to Substance Abuse (2008-2009).

The National Plan of Action for Children (NPA) 2004-2010 is a framework document for the activities, programmes, and strategies that the state and civil society are taking to appropriately respond to the child's needs and achieve the following key objectives: ensure that all children have the right to protection against inequality, that all girls and boys have the right and access to quality education, that they are ensured a healthy life and environment, and that all children may become fully fledged citizens.

The Ministry of Labour and Social Care and UNICEF office in Podgorica have agreed to conduct a thorough analysis of the effects of the current NPA so far and act accordingly to develop a new National Plan of Action for Children.

The institutional framework for the protection and exercise of the child's rights comprises courts, guardianship authorities, the Council for the Child's Rights, Protector of Human Rights and Freedoms and line ministries (the Ministry of Health, Labour and Social Care, the Ministry of Education and Science, the Ministry of Justice and the Ministry of Internal Affairs and Public Administration). Various child protection and care issues are also brought to the agendas of the Ministry of Spatial Planning and Environment Protection, Ministry of Finance, Ministry of Foreign Affairs, Office for Gender Equality, Office for Cooperation with NGO, Office of the National Coordinator for Fight Against Trafficking in Human Beings, the Refugees Care Centre, and the Police Directorate, among others.

Judges handling family law and criminal law cases must undergo special training in the child's rights. Such training is organized at the Judicial Training Centre, which operates as a separate organisational unit within the Supreme Court of Montenegro. These specialist



training requirements are also in place for juvenile justice prosecutors and defence counsels, and representatives of the police.

The guardianship authority is an expert social care service which is authorised by law to provide family legal protection. The duties of the guardianship authority are discharged by social work centres, state bodies set up at municipality level. The guardianship authority provides legal protection to the family and children primarily in the area of family law, but also addresses issues concerning criminal, social, civil, and administrative law. The guardianship authority's role of utmost importance is that of its cooperation with the court towards the protection and exercise of the child's rights. In the court procedure the authority may have the status of a party to the procedure, legal representative, intervener or forensic expert. It has the authority to provide assistance and support, advise, warn, and issue protective measures. In drafting, pronouncing and implementing decisions and specific measures, the guardianship authority makes use of all social care modalities and social care and other expert services methodologies, but also relies on the services provided by social, health care, and education institutions and other services and organisations.

In 2007, Montenegro's Government set up the Council for the Child's Rights with the responsibilities to follow up the implementation of the National Plan of Action 2004-2010, protect and promote the child's rights in the field of social and child care, health care, education and other fields important for the protection of the child's rights and interests, monitor the implementation of legislation on the protection of the child's rights, monitor Montenegro's compliance with the Convention requirements and those arising from other international instruments concerning the protection of the child's rights, initiate new legislation to strengthen and protect the child's rights, promote cooperation with local self-government in the implementation and protection of the child's rights, improve cooperation with non-governmental organizations in the implementation and protection of the child's rights, raise public awareness of the child's rights and report on the child's rights situation. The Council discharges its duties in conjunction with the United Nations agencies and other international organisations addressing child's rights issues. The Council has nine members (six ministers, one representative of the Statistical Office, one of the NGO sector, and one from public and cultural life).

The office of the Protector of Human Rights and Freedoms (Ombudsperson) was introduced in 2003 to ensure a more efficient institutional protection of human rights and freedoms in Montenegro. Under the Protector of Human Rights and Freedoms Act, the manner of work and organisation of the Protector service shall be regulated by the Operating Rules. These set out that Deputy Protectors shall enjoy equal authority in their respective areas to that of the Protector. Deputy Protectors are elected by the Parliament upon the proposal of the Protector by the majority votes of all MPs. Deputy Protectors are elected for a term of six years and may be re-elected for one more term only. The Parliament of Montenegro issues a decision on the number of Deputy Protectors of Human Rights and Freedoms. Under its decision published in the "Official Gazette of RMN", No. 54/08, the Protector of Human Rights and Freedoms shall have three deputies for minority rights, child's rights and general issues respectively. The Deputy Protector for the child's rights was elected by the Parliament of Montenegro on 29 July 2009. The new Protector of Human Rights and Freedoms Act is now being drafted and will provide for the following new departments: for the protection from discrimination, prevention of torture, child's rights, minority rights, and general issues.

Members of the Committee,



You have had opportunity to gain an insight into the child rights situation in Montenegro through the initial reports, the alternative reports presented at the session of 14 July 2010 in the presence of the representatives of children, NGO sector, Protector of Human Rights and Freedoms, UNICEF Office in Podgorica, and through the responses to the additional questions.

I would like to take this opportunity to remind you now of some important facts concerning the implementation of the Convention and its Protocols.

National legislation does not provide a definition of the child. The term most often used to refer to a person under 18 is juvenile. Individual laws set out age limits for the exercise of certain child's rights, duties and responsibilities. For example:

-a child under 14 may take legal action upon prior or subsequent parental consent or the consent of guardianship authority where the child's immovable or valuable movable property or the child's property rights are subject to disposition or real burdens;

-a child who has turned 15 years of age may engage in legal affairs by which to manage and dispose of their income or property earned by their own work;

-paternity may be acknowledged by a man who has turned 16 years of age, of sound mind. To acknowledge a child over 16 as your own, one must obtain the child's consent. Adoptions of children over 10 years of age require the child's consent.

-a labour contract may be concluded by a person of minimum 15 years of age and of general health capacity.

Under the Family Act, the age of majority is 18. One is considered to have gained full capacity to work at the age of majority or after having concluded a marriage before the age of majority with the consent of the court.

Recognizing fully the Convention underlying principles and committed to protect the right to life which, unquestionably, is most important, the national legislation, namely the Constitution of Montenegro, prohibits capital punishment and guarantees human dignity and safety and inviolability of physical and mental integrity. The protection of the right to life is also ensured through the criminal legislation.

When it comes to the child's subsistence and development, the legislation sets out the duty of the state to put conditions in place for free and responsible parenthood through a series of social, health and legal protection measures as well as through education and information systems, employment, housing and tax policies and through developing all other activities to the benefit of the family and its members.

The principle incorporated in the national legislation is that of the best interests of the child. Various legislation set out the obligation of everyone to be lead by the child's best interest in all activities relating to the child.

The Constitution of Montenegro prohibits direct or indirect discrimination on any grounds. It also sets out that the regulations and special measures introduced to create the conditions for the exercise of national, gender and general equality and protect persons who are in an unequal position on any grounds shall not be considered discrimination. The special measures may only be applied until the outcomes for which they were undertaken are achieved. The Prohibition of Discrimination Act adopted in July 2010 provides for the prohibition of and protection from discrimination over any personal property (race, skin colour, citizenship, nationality or ethnic origin, religious or political convictions, sex, gender identity, sexual orientation, birth, genetic particularities, health condition, disability, marital



and family status, age, membership in political, trade union and other organisations, and other actual or assumed personal properties).

Various other legislation has provisions governing prohibition of and protection from discrimination on individual grounds or in relation to the exercise of individual rights.

The Constitution of Montenegro sets out that everyone shall be guaranteed the right to freedom of thought and freedom of expression by speech, writing, picture or in some other manner. The Family Act guarantees the right of the child to free expression of their views in different situations. Its underlying principle is that the child capable of forming their own views has the right to free expression of those views. The child has the right to receive in a timely manner all information necessary to form their views. The views of a child must be given due consideration in all issues related to them and in all procedures resulting in decisions on their rights, limited only by the child's age and maturity. A child who has turned 10 years of age may freely and directly express their views in all actions in which their rights are decided on. A child who has turned 10 may, directly or through some other person or institution, refer to the court or an administrative authority and request assistance in exercising their right to free expression of views. The competent authority shall determine the child's view in an informal interview carried out in an appropriate place, in cooperation with the school psychologist or guardianship authority, family counselling office or other institution specialised in family relations, or in the presence of the person the child has chosen themselves. In addition, the court must give the child opportunity to express their views. If the court finds that the status of a party to the dispute over child's rights or dispute over exercise or deprivation of parental rights is enjoyed by a child capable of forming their own views, the court is under duty to: (1) ensure that the child receives all information they need in due time; (2) allow the child to express their views directly and to give due consideration to the child's views in accordance with the child's age and maturity; (3) establish the child's views in the manner and at the place that suit the child's age and maturity, unless manifestly contrary to the child's best interest.

### **Members of the Committee,**

The entire Montenegrin society attaches special importance to the protection and enhancement of the status of vulnerable categories of children.

Protection of children without parental care is governed by the Family Act and the Social and Child Care Act. Under the provisions of these laws, the child without parental care may include a child whose parents are not alive, a child whose parents are unknown or whose parents' place of residence is unknown, and a child whose parents are fully deprived of parental rights or capacity to work. In selecting the form of protection best suited to the child, the guardianship authority examines comprehensively every individual case in order to tailor each individual arrangement to the child's needs.

The first protective measure used to protect the child without parental care is to place them under guardianship in order to provide the child with care, upbringing and education and so develop their personality and prepare them for independent life and work.

The Family Act provides for the following two basic forms of care for children without parental care - adoption and placement with a non-biological family. The Social and Child Care Act provides for the right to placement with non-biological family or social care institution and sets out that priority shall be given to the placement with non-biological family. At present, there are 337 children in Montenegro placed with non-biological families.



Most of these are placements in blood-related family, and few cases of placements in other families, not related by blood.

Placement in a social and child care institution is a less frequently used form of family placement. This form of placement is organised through the social care centres pursuant to the Social and Child Care Act and the Family Act. Children without parental care and children whose development is impeded by the family circumstances are provided with accommodation in the "Mladost" Child Home, Bijela. The number of children in the Child Home varies but amounts to 160 on average.

Under the Family Act, adoption is a special form of family law protection of children without parental care or without appropriate parental care establishing parental or congenial relations. In Montenegro, adoption may be established as complete or incomplete. The child has the right to know that they were adopted. Adoptive parents shall inform the child that they were adopted by the age of 7 at the latest, or immediately upon adoption if the child is over 7, as well as to inform the guardianship authority of this. Adoption may be established only if it is in the best interest of the adopted child.

Adoptions by foreign nationals are prohibited. Exceptionally, a foreign national may adopt a child if adoptive parent may not be found among the nationals of Montenegro. In cases of inter-state adoption, institutions of the Montenegrin system shall accept for consideration the documentation issued by the authorities of the potential adoptive parents' state of origin. Inter-state adoptions require the consent of the Ministry of Social Care, issued on the basis of the expert commission findings.

Montenegro has initiated the ratification procedure for the Hague Convention on the protection of children and cooperation in issues of inter-state adoptions.

State authorities maintain the duty to continually monitor and inspect the form of child care established.

Special importance is attached to child protection against abuse and neglect. The child protection measures against violence were introduced by both criminal and family legislation so that some forms of parent violent behaviour may entail dual responsibility. The newly adopted Protection against Domestic Violence Act will ensure a greater level of care for children victims of violence. The act defines the protection forms and procedures envisaged for victims of violence. They include development of the victim support plan, social care, legal assistance, victim safety, as well as protective measures taken against the abuser (order to stay away from the place of residence, restraining order, prohibition of harassment and following about, compulsory treatment of addiction and compulsory psycho-social treatment). The act sets out the procedure by which the protective measures are ordered and introduces a duty to develop a special Strategy of Protection against Domestic Violence.

The activities so far have been taken with outstanding support from the multidisciplinary teams operating as part of social care centres. Their members are professionals in the areas of social care, health care, judiciary, prosecution, police, education and the NGO sector. To improve the quality of their work ongoing training of professional staff in all sectors is organised as well as regular supervision. So far, around 350 professionals have undergone such training. This model has proven to be very successful, which is confirmed by the project evaluation conducted by the UNICEF.

Montenegro's Constitution guarantees special care to persons with disabilities. Various legislation governs the rights intended for children with disabilities and their families. To ensure comprehensive care is provided to persons with disabilities, the Government of



Montenegro has put in place a series of strategic documents some sections of which address this issue: Strategy of Development of Social and Child Care 2008-2012, Strategy of Integration of Persons with a Disability 2008-2016, Information on the Implementation of the Action Plan for the Implementation of the Strategy for the Integration of Persons with a Disability in Montenegro for 2008-2009, and now the second one for the period 2010-2011. These documents promote decentralisation and encourage a system of local level services and a network of day care centres for children with developmental disorders who cannot be included in mainstream education process. Beside the Bijelo Polje day care centre, similar centres have been set up in Niksic, Ulcinj and Pljevlja, with plans to also cover the towns of Berane, Bar, Mojkovac and Cetinje. In conjunction with UNICEF office in Podgorica we are working intensively on designing and launching new services intended for children with developmental disorders.

The Constitution guarantees to persons who are members of national minorities and other minority national communities the rights and freedoms that they can exercise individually or with others. Particularly important for the child's rights are the following: the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities; the right to use their own language and alphabet in private, public and official use; the right to education in their own language and alphabet in public institutions, and the right to have included in the curricula the history and culture of the persons belonging to national minorities and other minority national communities; the right to establish educational, cultural and religious associations, with the material support of the state; the right to have their name written in their own language and alphabet in the official documents; the right to information in their own language; the right to establish councils for the protection and improvement of the special rights.

The new curricula developed as part of education reform efforts for language, society, history, music and visual arts have significant portions devoted to content representing language, creative work, history and culture of minorities living in Montenegro.

Textbooks have been designed for the implementation of the majority of the curricula in Albanian for primary, secondary and higher education. Where textbooks have not been developed yet for reason of small circulation, the Council has approved, following the recommendation of the Commission for the education of national and ethnic groups, the use of textbooks developed in the region (Kosovo, Albania).

Education of other minorities, namely Bosnians, Muslims and Croats in Montenegro is part of the unified education system and is based on the common curricula since the language they speak is part of one linguistic system. Apart from the content integrated into the regular curricula, minority communities have the possibility to suggest and create additional 20 per cent of the overall curricula content of the new courses particularly important for their education, which they will study separately, depending on their needs and interests.

The University of Montenegro has a teacher training college in Albanian organized to prepare the teaching staff. This programme of studies was set up in line with applicable norms of the national higher education quality system.

The education of the Roma national minority and learning of Romani as a mother tongue in Montenegro still raises concerns as there are significant problems in integrating this national minority into the formal education system. The following are the main concerns in Roma education: insufficient teaching staff; Romani is not a standardised language; Roma in Montenegro speak various mutually very distinct dialects; lack of textbooks in Romani. To overcome these problems, a series of activities have been undertaken in line with the strategic documents to integrate Roma children in the education process and help them





complete their education. To that end, the measures undertaken include the supply of textbooks and other school material free of charge and the provision of social support to families, but there are many other activities taken to contribute to full integration of Roma into Montenegrin society.

In addition to the categories of children already mentioned here, more measures and activities are taken to protect children from sale, child prostitution and child pornography, namely of displaced and refugee children, children in conflict with the law, that you could gain an insight into from the reports submitted.

#### Members of the Committee,

I believe that from the reports presented so far you have gained a realistic picture of the child rights situation in Montenegro. In this address, I have tried to briefly outline the activities taken in Montenegro in the field of child care. A more detailed account would require more extensive elaboration and I have therefore tried to focus on the most important issues which will serve as starting point for our constructive dialogue at this session in order to analyse realistically the situation in Montenegro with respect to issues addressed by the United Nations Convention. The delegation of Montenegro will make every effort to give maximum contribution by replying to any questions that you may have.

We are fully aware that in spite of the measures and activities taken we are facing challenges in our endeavours to ensure full implementation of the Convention on the Rights of the Child and its Protocols. I hold that the recommendations to be received after this meeting will be valuable for our follow-up actions in this field.

Thank you for your patience.

