



**UNITED NATIONS  
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# **United Nations Country Team (UNCT) Submission for the fourth Universal Periodic Review of Montenegro**

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The UNCT in Montenegro consists of the following entities:

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### **PART I. INTRODUCTION**

1. The United Nations Country Team (UNCT) in Montenegro appreciates the opportunity to contribute to the fourth Universal Periodic Review (UPR) of Montenegro by the Human Rights Council in May 2023. The UNCT has identified a range of areas in which progress has been made but where challenges remain. Recommendations are made how to tackle existing challenges, which where relevant, have been linked to recommendations from the 2018 UPR of Montenegro. Human rights challenges faced by specific groups are mainstreamed throughout the report or included in the last part of the report that focuses on groups.

### **PART II. HUMAN RIGHTS PROGRESS AND REMAINING CHALLENGES**

#### **Ratification of international instruments**

2. Montenegro noted a 2018 UPR recommendation to ratify the only outstanding core Convention on the rights of migrant workers, ICRMW.<sup>1</sup> It signed the Convention in 2006 but has yet to ratify it. Parliament has yet to vote on a draft law to ratify ILO Convention 190 on Violence and Harassment in the World of Work.

3. **Recommendations:**

- Review Montenegro's position and ratify ICRMW;
- Ratify ILO Convention 190.

#### **Cooperation with UN human rights mechanisms**

4. Montenegro cooperates with UN human rights mechanism. Since the last UPR, the country received three visits of the Special Procedures and responded to their letters, reported to and was reviewed by several treaty bodies, and submitted a mid-term UPR report. Reports under ICESCR and ICCPR were overdue since 2019 and 2020. Some strategies refer in general terms to recommendations from the mechanisms, however implementation of strategies generally lags. Montenegro has not yet set up a mechanism for reporting to UN human rights mechanisms and follow-up to their recommendations (NMRF) as recommended during the 2018 UPR.<sup>2</sup>

5. **Recommendation:**

- Establish an NMRF and accelerate preparation of reports, and do so in consultation with civil society;
- Prioritize ICESCR and ICCPR reporting.

## **National Human Rights Institution**

6. The Protector for Human Rights and Freedoms is a B-status institution with a broad mandate. It serves as the National Preventive Mechanism, has an anti-discrimination mandate, and deals with children's and women's rights, among other areas. It is taking initial steps to establish an Independent Monitoring Mechanism under the Convention on the Rights of Persons with Disabilities<sup>3</sup>. The institution continues to receive limited financial and human resources from the State Budget. There was a decrease in the level of implementation of recommendations in recent years, with only 32% of its recommendations fully or partially implemented by authorities in 2021.<sup>4</sup> 2018 UPR recommendations to strengthen the institution have yet to be implemented.<sup>5</sup>

### **7. Recommendations:**

- Increase financial and human resources and raise the level of implementation of recommendations made by the Protector;
- Amend legislation and undertake other necessary actions for the Protector to be accredited with A-Status, and do so in consultation with the Protector.

## **CROSS CUTTING PRINCIPLE: NON-DISCRIMINATION**

8. Progress has been made in promoting the equal rights of groups facing discrimination. The law on life partnership of same sex partners was adopted by Parliament in 2020, extending the same rights to same-sex as heterosexual couples except for adopting children. A new anti-discrimination law is being drafted. Initial steps are taken to draft a law on legal gender recognition based on self-determination. A 2018 UPR recommendation to develop strategies to eliminate discrimination, in particular those against women as marginalized groups has been implemented.<sup>6</sup> Challenges persist. Some legislation is not in line with international standards. For instance, some definitions of disability in law use derogatory terminology.<sup>7</sup> Implementation of legal and strategic frameworks lags, due to factors which include inadequate resources and weak intersectoral coordination, monitoring and accountability. As an example, gender equality has not been prioritized in Government's accountability mechanisms. The 2019 Gender Equality Index for Montenegro was 55, 12 points below the EU-28 average, mainly due to inequality in political and social participation of women, in the economic sphere and unequal division of responsibilities (for more see below).<sup>8</sup>

9. Discrimination translates into hate speech. A 2020 national representative opinion poll found hate speech mostly present towards Roma (49.4%), LGBTI persons (44.4%), persons with disabilities (34.3%) and women (28.8%).<sup>9</sup> Hate speech has increased in recent years in a context of frequent political change, uncertainty and tension. The European Commission also reported a rise in ethnically and religiously motivated attacks, hate crimes and hate speech, and in smear campaigns, hate speech against women in politics and public life, in 2021.<sup>10</sup> Hate speech takes place in the public space, especially in online media where self-regulation and moderation of comments is weak. Some leaders engaged in hate speech; others condemned it. Some politicians and citizens denied the Srebrenica genocide and glorified war criminals. Official data on hate speech and hate-motivated violence is

lacking as there is no system to collect disaggregated data.<sup>11</sup> Some people were convicted for hate speech but overall accountability is limited. Acceptance of hate speech among young people is high. A 2021 regional perception survey with youth found that 42% of respondents from Montenegro believe that expressing hate should be permissible.<sup>38</sup>

#### 10. **Recommendations<sup>12</sup>:**

- Cost and monitor adequately strategies, empower and increase accountability of institutional mechanisms promoting equality of all groups. Improve intersectoral cooperation to ensure maximum impact of laws and strategies;
- Continue to address challenges to ensure equal opportunities between women and men, focus on economic and political empowerment of women, and combating violence and stereotypes of traditional women's roles;
- Strengthen social cohesion through:
  - a) In-depth analysis of extent, causes and consequences of hate speech and crime, and systematically collect data on the phenomenon;
  - b) Stepping up efforts ensure accountability for hate speech and crime, and build capacities to monitor, prevent and respond to all forms of hate speech;
  - c) Increasing prevention through public campaigns and building a culture of dialogue among and between leaders, and citizens of different backgrounds and opinions;
  - d) Systematically building socio-emotional and media literacy skills of children and including mandatory civic education in primary and high schools' curricula to prevent hate speech among children, adolescents and youth.

### **CIVIL AND POLITICAL RIGHTS**

#### **Administration of justice, including transitional justice**

11. Judicial independence is guaranteed in law, however, both judiciary and prosecution were perceived as vulnerable to political interference. New appointments were made in the prosecution service since late 2021, and some former and current high-level officials were arrested reportedly on charges of abuse of office and involvement in a criminal organization. There was continued concern that the law is not applied equally to all. Overall trust in the judiciary has been low for years.<sup>13</sup> Reforms have stalled, resulting in, among other things, the non-functioning of the Constitutional Court since 13 September 2022 for lacking quorum, due to Parliament's inability to elect new judges.

12. Montenegro did not experience the same level of conflict as other countries in the Western Balkans in the 1990s. However, Montenegrins were involved in the wars in the region, two Montenegrins were convicted by the International Tribunal for the Former Yugoslavia, and some war crimes occurred in the country. Since the previous UPR, only two cases of war crimes have been prosecuted in the country. An ex-soldier was sentenced to 14 years imprisonment for war crimes committed in Kosovo<sup>14, 15</sup> A trial started on 30 September 2022 for war crimes, including rape and murder, committed in Bosnia and Herzegovina. A 2018 UPR recommendation to investigate and

sanction particularly those with command positions has not been implemented yet.<sup>16</sup> Seven war crimes cases are reportedly under investigation, based mainly on a file handed over by International Residual Mechanism for Criminal Tribunals to Montenegro's Prosecution. Deficiencies in implementation of the 2015-2020 War Crimes Strategy of the Office of the Prosecution, the lack of a new Strategy, and gaps in capacity of institutions in charge of war crimes processing, have been observed by local NGOs and others, including the European Commission.<sup>17</sup>

13. The whereabouts of more than fifty persons from Montenegro, who went missing in other territories in the region, remain unknown. A regional database of missing persons, reportedly to be launched in all countries in Western Balkans end 2022, may boost regional cooperation between Missing Persons Commissions to clarify the whereabouts of those who remain missing. A small war crimes information and documentation centre exists, and while formally handed over to the Parliament in 2021, an NGO continues to operate it without sustainable funding.

14. Systemic implementation of child friendly procedures is lacking in the justice system. There is limited child friendly infrastructure and few justice professionals are specialized in dealing with children in contact with the law. There is no free legal aid for children.

15. **Recommendations<sup>18</sup>:**

- Accelerate judicial reform, ensure full independence of judicial actors, and urgently elect top level judicial officials;
- Increase efforts to investigate all war crimes from the 1990s conflicts, bring all responsible to justice, including those with command responsibility, and ensure adequate reparations for victims. Enhance knowledge in international law and capacity of prosecutors and judges to deal with war crimes;
- Step up efforts to clarify the whereabouts of Montenegrins who remain missing due to the 1990s wars;
- Provide sustainable support for memorialization, including for the information and document centre, ensure that learning about the past is part of youth education, to prevent recurrence of grave human rights violations;
- Implement child friendly justice principles and build specialized capacity of professionals working with children in a justice system. Consider setting up specialized courts for child related cases and provide child friendly premises for interviews.

## **Violence against women and children**

16. Gender Based Violence (GBV) remains the most extreme manifestation of gender inequality in Montenegro. 2018 UPR recommendations in this area have only been partially implemented. The COVID-19 pandemic saw an increase in GBV and deepened existing challenges for women and girls to access essential services like counselling, legal advice, social service and health, including sexual and reproductive health. The pandemic unveiled barriers for victims to access justice, including gender stereotypes, prejudice, lack of effective intersectoral cooperation and lack of application of urgent procedures by the authorities.<sup>19</sup>

17. There is no strategic framework on GBV and domestic violence and on violence against children. The Strategy for Protection from Violence in the Family expired in 2020 and on Prevention and Protection of Children from Violence in 2021. There is a lack of specialized services for victims of violence. The legal framework to protect women and children from violence was strengthened with 2021 amendments to the Criminal Code introducing higher sentences for sexual abuse and other crimes against children, and a register of perpetrators of sexual abuse against children.

18. The prevalence of violence against children (VAC) remains high. Sixty-six percent of children are estimated to experience violent discipline at home by an adult family member/caregiver. For children with disabilities, the situation is worse, with an estimated 83 per cent suffering violence. Acceptance of VAC is high. Sixty-seven percent of the general population consider physical punishment a justified means of child discipline.<sup>20</sup> There is serious under-reporting of cases of violence against children. There is no reliable data about the nature and extent of violence against Montenegrin children, a lack of services and primary prevention and early intervention programmes, and insufficient and unstable financing.<sup>21</sup> Other major challenges include insufficient national capacity to implement multi-sectoral and holistic interventions to prevent and address VAC.

19. Significant efforts are made to counter trafficking. Capacities to identify and assist victims have been built, and there is regular coordination between relevant institutions. A key challenge concerns the shelter for victims, set up in late 2019, which is operated by an NGO without experience in protection and assistance.

#### 20. **Recommendations<sup>22</sup>:**

- Adopt new strategies to combat GBV and domestic violence, and violence against children, budget and systematically monitor these;
- Invest sustainable resources to accelerate protection, preventative, outreach and victim support services in health, social, and child protection sectors, develop programs for parents and family outreach workers, and establish Children's Houses (Barnahus) for children, victims of the most severe forms of violence;
- Ensure free legal aid for all children victims of sexual violence or abuse;
- Build capacity of staff working with victims of trafficking and ensure a sustainable system that upholds the highest protection standards.

#### **Civic space, freedom of opinion and expression and participation in public life**

21. Civic space is generally wide, however, there have been instances of alleged arbitrary arrests of citizens and media for expressing themselves. Some civic activists and human rights defenders have been subject to verbal threats, hate speech and death threats. There are regular reports of threats and attacks against journalists, including hate speech against women journalists. Shortly after the third UPR, in May 2018, a female journalist was shot in Podgorica. This and other old cases of attacks, including the 2004 murder of an editor, are yet to be fully resolved.

22. While high-level officials on the one hand promoted freedom of expression and media, on the other, threats and generic accusations against the media were made. Response to incidents was reportedly improving, however accountability needed strengthening. The commission monitoring investigations into attacks on journalists reviewed 23 incidents of threats, attacks and damage to property of journalists, between June 2021 and April 2022. It concluded that in only four cases, police and prosecution had taken all measures and actions within their competence.<sup>23</sup>

23. Different groups experience inequality in participating in political and public life. UPR recommendations from 2018 on political empowerment are yet to implemented.<sup>24</sup> Women's representation in Parliament, while slightly increasing, remains low as only 27% of Members of Parliament are women. Planned electoral form to increase the proportion of women to 40% and position at least one woman among three candidates on electoral lists, stalled. The Roma and Egyptian community have no representative in Parliament. Election legislation on political parties representing national minorities does not favor its representation in the legislature.

24. Women have limited opportunities to express their views and influence debate in society. They are one-fifth of those who appear in media and only a quarter of them speak. Montenegrin media perpetuates gender stereotypes in reporting. Topics on gender inequality and discrimination are neglected, and gender-based violence is reported in violation of ethical and professional standards.<sup>25</sup> Adolescents and youth are not viewed as a resource, and adolescents are not recognized as a separate age group in law and the Strategy for Youth. Youth face barriers to participate due to limited youth services, services not catering to age groups, insufficient information on participation models, and schools and universities do not recognize volunteering and civic engagement, among other things.<sup>26</sup>

## 25. **Recommendations:**

- Investigate all attacks on members of civil society, including human rights defenders and media, and ensure accountability of perpetrators. Continuously show commitment to full respect for freedom of expression and a free media;
- Unblock electoral reform, amend legislation to increase women's representation in Parliament, and take steps to guarantee that Roma and Egyptians are represented in Parliament;
- Recognize adolescents as a separate age-group in law, design adolescent and youth services with involvement of youth, and offer more participation models for youth in decision-making processes especially those concerning funding of youth services and youth programmes.

## **Freedom from torture, and ill-treatment conditions of detention**

26. Irregular instances of ill-treatment and excessive use of force by police continue to be reported. Allegations of serious ill-treatment by police against three men, one of them undergoing treatment in a psychiatric hospital, in 2020 were raised with the Government by the UN's Special Procedures.<sup>27</sup> By September 2022, no one had been prosecuted.<sup>28</sup> While overall, policing of regular and large demonstrations over the past two years did not give rise to human rights concerns, there were allegations of excessive use of force and teargas in response to a large protest in Cetinje in September

2021. Concerns were expressed of inadequate police action to prevent and respond to a mass shooting by a civilian, in Cetinje in August 2022, that left 12 persons. Some police officers were reportedly charged while results of other investigations were pending by September 2022.

27. UPR recommendations to improve conditions of detention were partially implemented.<sup>29</sup> Despite progress, conditions are not fully in line with international standards, in particular in some police cells.<sup>30</sup> Overcrowding in the investigative department in the country's main prison persists.<sup>31</sup> A separate prison facility for children was opened in 2020. In 2020, the National Preventative Mechanism reportedly identified 11 cases of ill-treatment in prison.<sup>32</sup>

**28. Recommendations<sup>33</sup>:**

- Step up efforts to investigate swiftly all allegation of ill-treatment and excessive use of force by police and in prison, and hold those responsible to account;
- Assess the level of compliance of detention facilities with international standards and allocate sufficient resources to address the most pressing concerns, including persistent overcrowding in pre-trial detention.

## **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### **Right to adequate standard of living, poverty**

29. The COVID-19 pandemic has had a significant social and economic impact on all people in Montenegro, though it has especially affected certain populations. The estimated poverty rate worsened from 15.6% in 2019 to 19.9% in 2020.<sup>34</sup> Poverty is increasingly becoming a concern in the North where employment and earnings lag other regions.<sup>35</sup> Certain groups are more severely affected by poverty. Sixty percent of persons with disabilities in Montenegro are estimated to live below the poverty line.<sup>36</sup> Ninety percent of Roma settlements are materially deprived.<sup>37</sup> A survey conducted for the Roma and Egyptian inclusion strategy found that life expectancy of Roma and Egyptians is 55, 20 years below the national average.<sup>38</sup>

**30. Recommendations<sup>39</sup>:**

- Identify policies and investments to create more economic opportunities for communities in the North and for vulnerable groups.
- Increase the effectiveness of transfers to municipalities to reflect social and economic need, and focus economic support to the north, improving infrastructure to support connectivity.

### **Right to Work**

31. While women are closing gaps with men in formal employment, inequalities remain. During the pandemic, these rose further. For instance, 92% more women than men carried the burden of the care economy.<sup>40</sup> Youth unemployment rose during the pandemic from 22.3% in 2019 to 32.5% in 2021. The



rate of young persons who are not in education, employment or training (NEET) increased from 21.3 to 26.5 in the same period.<sup>41</sup> Montenegro's informal economy employs an estimated 23% of the labour force.<sup>42</sup> Informal employment is vulnerable and unprotected when economic shocks occur.

32. Few Roma and Egyptians are formally employed. A 2020 survey found that, while decreasing, unemployment of this community was high, and stood at 70.7%.<sup>43</sup> Roma and Egyptians face prejudice and discrimination when seeking employment.<sup>44</sup> There is limited affirmative action in law or practice.

33. Persons with disabilities face challenges to enter the labour market, though exact unemployment figures are unknown. In 2019, 48% of persons with disabilities, who registered as unemployed did not have formal education.<sup>45</sup>

34. **Recommendations<sup>46</sup>:**

- Create tailor made activation measures and support schemes (like quotas, internships, loans) focused on Roma and Egyptians, inactive women, youth, persons with disabilities and NEETs;
- Increase efficiency of the Employment Agency and enable it to collect comprehensive and disaggregated statistics.

### **Right to Education**

35. UPR recommendations from 2018 on education have only been partially implemented. Concerns regarding the quality and equity in education in Montenegro persist, and were exacerbated during the COVID-19 pandemic.<sup>47</sup> PISA results from 2018 show that Montenegrin students are almost two years behind their peers in OECD countries. The situation is even worse for students from socio-economically disadvantaged groups who lag almost 1.5 academic years behind their peers.<sup>48</sup> Enrolment in preschool increased between 2013 and 2019 (from 52% to 76%), but is still significantly below the EU average (95%).<sup>49</sup> School infrastructure is inadequate with 68% of all primary school students enrolled in 13% of primary schools in Montenegro.<sup>50</sup>

36. Roma and Egyptian children faced significant challenges to exercise their right to education. Only 16% are in early childhood education (compared to 53% of the general population).<sup>51</sup> The number of Roma children enrolled in preschool education has declined since the start of the pandemic in 2020.<sup>52</sup> Primary school completion rate is 56% and for secondary school this is 3% for children in Roma settlements – significantly lower than the 96% and 86% for the general population. Out of school rates among Roma and Egyptian children are very concerning at 22.1% for primary education and 75.4% for secondary education - compared to 2.5% and 6.5 %, respectively, for non-Roma children.<sup>53</sup>

37. The number of children with disabilities in mainstream education has increased constantly since 2009, but pedagogical services for this group of children are uneven among the schools due to insufficient capacities and resources.

**38. Recommendations<sup>54</sup>:**

- Develop a quality and budgeted Education Sector Strategy, for long-term, quality, and sustainable reforms in governance, financing, infrastructure, quality and equity of education, and increase the education budget and efficiency of spending;
- Invest in increasing enrolment of children from most vulnerable groups in preschool and primary education and ensure transition between education levels. Raise capacities of teachers and school professionals to provide quality pedagogical care;
- Ensure smart and inclusive use of digital technologies to improve quality and equity of education, and increase the resilience of the system to shocks and crisis.

**Right to Health**

39. Social health insurance contributions were the main source of funding health expenditures for many years. Before the pandemic it contributed more than 49%.<sup>55</sup> In 2022, these stopped, resulting in issues with financing of the health fund. Since, there have been shortages of key medicines and treatments impacting on people's access to health care.

40. Persons with disabilities continue to face various challenges to exercise their rights to health care. For instance, in 2018, NGOs reported that only three gynecological chairs were accessible nationwide to women with disabilities.<sup>56</sup> The UN understands this situation remains in 2022. One of Montenegro's psychiatric hospitals, in Dobrota Kotor, which housed over 200 patients in late 2021, is overcrowded and conditions are poor.<sup>57</sup> The transgender community faces challenges to access hormone therapy due to shortages.<sup>58</sup>

41. Montenegro has extremely low coverage of children's routine immunization (18% for the first dose of MMR vaccine, the lowest in the WHO EURO region).<sup>59</sup> Only half of children aged 6 to 23 months have a minimum acceptable diet, and this is the case for less than one quarter of Roma children. One in five children living in Roma settlements is stunted. Despite almost all births taking place in health facilities, early initiation of breastfeeding was only 24% in 2018.<sup>60</sup>

42. There are challenges with the system for early detection of risks, developmental delays and disabilities. Current neonatal screening, physician-based monitoring and surveillance system identifies children with at-risk conditions, developmental delays, mild disabilities, behavioral conditions and mental health needs relatively late. Montenegro has a fragmented early childhood intervention system<sup>61</sup>, interventions are usually not conducted in the child's natural environment and there is insufficient parenting support and education.<sup>62</sup>

**43. Recommendations:**

- Ensure appropriate funding for health care to meet the needs of the population;
- Ensure targeted interventions to address the lack of access to medical care for persons with disabilities and transgender persons;

- Accelerate actions to increase immunization of children;
- Increase efforts in primary health care to improve breastfeeding rates and nutrition practices. Work with schools to strengthen nutrition education;
- Strengthen child developmental monitoring, reform the early childhood intervention system and align it with contemporary transdisciplinary and family-centered models;
- Conduct a comprehensive assessment of the health situation of population in Roma settlements, and do outreach with health care providers and communities.

## **Right to Social Security**

44. Montenegro's social and child protection system is under-resourced and predominantly reactive. As a result, many people are not availing of the services. Services for families at risk of poverty, family separation, violence, children without parental care, children victims of violence and child marriage and other forms of exploitation are weak and lacking sustainability. There is weak governance and accountability, evidence-based policymaking, coordination between relevant sector, poor financing of services. The number and capacities of the social service workforce are insufficient. Inadequate specialization of professionals across the sectors is a persisting challenge.<sup>63</sup>

45. Family material support benefits are conditioned on a means-test and on education enrollment. This disproportionately affects Roma, penalizing the most vulnerable and reducing the effectiveness of targeted programmes. Studies have found that the cash transfers' value, frequency, and reliability more significantly impacts programme outcomes than conditionality.

46. Only around 5% of the population receive family material support which is means-tested for poverty, while national at-risk-of-poverty is above 20%. Similarly, approximately 10% of children receive child allowance top-up for most vulnerable children while 32.6% of children are at-risk-of-poverty. The low coverage of the most vulnerable children might be due to complex means-testing criteria with up to 15 conditions a family must fulfil to qualify.<sup>64</sup>

47. Despite tangible progress over the past 10 years, 127 children still live in residential care, 48% of them with disabilities.<sup>65</sup>

## **48. Recommendations<sup>66</sup>:**

- Invest urgently in number and capacity of Centres for Social Work professionals as they coordinate support among different sectors, provide direct support and refer to services and benefits for the most disadvantaged children and families;
- Assess the potential to change criteria of the means test to ensure adequate coverage of individuals and families living below or near the poverty line, and ensure criteria are sensitive to the situation of particularly vulnerable groups which experience poverty differently;
- Create a social protection system responsive to the needs of Roma and Egyptian communities through specialized community-based services to increase uptake of education, health care, labour market participation and prevent child marriages;

- Accelerate development of family and community-based services to deinstitutionalize children, focus on prevention and foster care;
- Develop integrated benefits and services in child protection, women's empowerment, inclusion of persons with disabilities and Roma and Egyptian communities.

## **RIGHTS OF SPECIFIC GROUPS**

### **Roma and Egyptians**

49. Roma and Egyptians in Montenegro are among the most marginalized and deprived communities in Montenegro. A key challenge in addition to those described above is child marriage. UPR recommendations from 2018 have only been partially implemented.<sup>67</sup> Roma and Egyptian girls have a 22% chance of being married before 15 and a 60% chance of being married before 18, for boys this is 6% and 25% respectively.<sup>68</sup> Almost one third (32.5%) of girls aged 15–19, and almost one in six boys (15.8%) were in married or in union.<sup>69</sup> Bottlenecks to reducing child marriages include gaps in legislation and the legal definition of child marriages; prevailing traditional attitudes; many child marriages not being registered; and lack of professional support at local level to prevent child marriages and to assist victims.

50. Another concern is begging. While there are no statistics on the prevalence of begging, it is observed in public spaces. Systems to address begging are inefficient. Multi-sectoral cooperation protocols are in place, but need revision and operationalization.<sup>70</sup>

#### **51. Recommendations:**

- Increase collaboration between the Ministries of Labour and Social Welfare and of Human and Minority Rights and increase investment to improve livelihoods of the Roma and Egyptian community. Include indicators on access to social and child protection programmes in the strategy for inclusion of Roma and Egyptians;
- Increase awareness-raising/behavior change programmes on child marriage, including with marginalized communities; break traditional stereotypes and allocate additional resources to implement policies to eradicate child marriage;
- Establish cooperation mechanisms and support services to address child begging, in consultation with Roma civil society and experts;
- Amend legislation and establish the minimum age for marriage at age 18, without exception. Criminalize all forms of marriage with a person under age 18.

### **Children**

52. The legislative and institutional framework on child rights is largely aligned with international and regional human rights instruments. Challenges remain in implementation. Children's rights are not systematically integrated in high level political, social and economic agendas and a sense of ownership,

accountability, and sustainability of results for children is often missing.<sup>71</sup> Disaggregated data collection and analysis in all areas of child rights is weak. Despite the clear mandate of the Council for the Rights of the Child and elevating it to the Prime Minister level, inter-sectoral coordination among child rights monitoring mechanisms is limited. The National Strategy on the Exercise of Child Rights (2019-2023) is not systematically monitored.

53. Social norms and practices detrimental to child wellbeing prevent progress on children's rights, better understanding of challenges and addressing gaps. Positively, the Parliament of Montenegro, particularly its Women's Club, has been leveraging its authority to raise and address pressing concerns and solutions on children's rights issues in public fora.

54. There is no comprehensive information on public spending on children in Montenegro. There is no regular and consistent monitoring, and budget classifications and reporting systems are not yet geared to regularly produce information on different age groups and services.

**55. Recommendations:**

- Strengthen professional and financial capacities of child rights monitoring mechanisms (Council on Child Rights, Parliament, Protector for Human Rights and Freedoms);
- Evaluate the Strategy on the Exercise of Child Rights (2019-2023) and develop a new evidence-based and adequately budgeted child rights strategic framework;
- Introduce a child-budgeting methodology to improve taxonomy of child-focused social spending.

**Persons with disabilities**

56. A 2021 NGO survey points at changing public attitudes towards persons with disabilities, a decrease in prejudice, higher visibility of persons with disabilities in society and higher, though still insufficient respect for a range of rights.<sup>72</sup> In addition to the concerns described above, the UNCT wishes to highlight that adults and children with psycho-social and intellectual disabilities continue to be especially vulnerable to multiple deprivations. This is particularly the case for those who, based on legislation that is not in line with CRPD, are deprived of legal capacity, with some of them placed in institutional care, some for decades, where conditions are poor and as community based services are highly limited.

57. There is no comprehensive and reliable data of the number of persons with disabilities to enable effective, evidence-based policy planning and programming. The current system of disability assessment and determination in Montenegro is uncoordinated, based on the medical model, with more than 30 commissions operating in five sectors. This has resulted in persons with disabilities not having access to some benefits. The Government is reforming the disability assessment system, enabling a shift to the human rights-based model. A unique information system will enable data collection and analysis, generate an e-Register of persons with disabilities, and will be designed in line with CRPD Committee guidance. The new legal framework and national disability assessment methodology is expected to be in place end 2022.

58. A new five-year disability strategy, prepared under the leadership of the Ministry of Human and Minority Rights, was adopted in July 2022. The Directorate dealing with the rights of persons with disabilities within that Ministry was abolished in 2022. The National Council for the rights of persons with disabilities that monitors implementation of all laws and strategies, promotes rights and supports better coordination on disability, has not been functioning for years.

59. **Recommendations<sup>73</sup>:**

- Harmonize national legislation with CRPD and adopt a human rights and disability-based approach in all legislation, policies and practice;
- Ensure structural reform of the national disability assessment and determination system in line with the human rights model;
- End involuntary deprivation of liberty of persons with psycho-social disabilities, and develop community-based services;
- Effectively implement and monitor the five-year strategy, ensure adequate capacity in Government on the rights of persons with disabilities, and revive the National Council.

**Lesbian, gay, bi, trans and intersex (LGBTI) persons**

60. In addition to the concerns described above affecting the LGBTI community in general, there is evidence that transgender persons in Montenegro face more severe challenges, and encounter especially high prejudice. A 2019 NGO survey with high school students found widespread prejudice against transgender and gender diverse students. Half of the respondents thought that trans people are mentally ill, and 40% thought “that the existence of men and women will be threatened if society accepts trans people”.<sup>74</sup> Transwomen are even more vulnerable due to patriarchal norms and high levels of misogyny, homophobia and transphobia.<sup>75</sup> They often do not report violence due to fears about revealing their identity which could lead to further discrimination in society.<sup>76</sup>

61. Concerns expressed by the CEDAW Committee in 2017 that transgender persons were required by law to undergo a surgical intervention to obtain legal recognition, persist, and constrain access to health care and other services, like social protection.<sup>77</sup> The 2018 UPR recommendation to reform the law has not been implemented.<sup>78</sup>

62. July 2022 legislation on the organization and functioning of the Ministry of Human and Minority Rights does not note responsibility for promoting and protecting the rights of the LGBTI community.

63. **Recommendations:**

- Ensure capacity in government, and increase efforts to promote and protect the equal rights of the LGBTI community, including addressing multiple discrimination transgender persons, particularly transwomen, experience;
- Ensure that new legislation facilitates legal recognition based on self-determination.



## Refugees and asylum seekers

64. UNHCR submitted a separate report for the UPR, to which the UNCT refers.

65. Not all unaccompanied and separated children (UASC) arriving in Montenegro, and whose number increased due the war in Ukraine, are identified at the border, are visible in the registration system and are designated legal guardians at municipal centres. Schools reported a 56% increase in enrolment interest from children from Ukraine, in addition to additional interest from children from Russia and Belarus, in 2021-2022. The educational system is already functioning beyond capacity, but the Ministry of Education is undertaking efforts to ensure these children can take part in education.

### 66. **Recommendations:**

- Identify all UASC children at the border and make them visible in the electronic system registering those eligible for temporary protection;
- Issue urgent instructions to municipal social welfare centres to designate legal guardians so that they can apply for children's benefits;
- Undertake efforts to the maximum available resources to ensure all children who seek refuge in Montenegro continue their education.

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1 UPR 2018 recommendations 106.1-2.

2 In line with UPR 2018 recommendation 105.10 on an NMRFs.

3 Under article 33.2 of the Convention on the Rights of Persons with Disabilities.

4 Data received from the Protector for Human Rights and Freedoms.

5 In line with UPR 2018 recommendations 105.6-9 on strengthening the institution, including its financial and human resources.

6 Recommendation 105.11. Strategies on gender equality, inclusion of Roma and Egyptians, improving the quality of life of LGBTI persons, and on prohibiting discrimination against persons with disabilities have been adopted.

7 CRPD Committee (2017), para 10(c) and (d). Terms used in legislation include mental disorder, powerless person, invalid and having physical defects.

8 Olivera Komar, State Statistical Office of Montenegro, (MONSTAT) in cooperation with the Department for Gender Equality of the Ministry for Human and Minority Rights, the European Institute for Gender Equality (EIGE) and the United Nations Development Programme (UNDP), Gender Equality Index Montenegro, 2019.

9 Centre for Democracy and Human Rights (CEDEM), Patterns and Degree Of Discrimination In Montenegro – 2020, page 18.

10 European Commission, Montenegro 2021 Report, page 34.

11 European Commission Against Racism and Intolerance. (ECRI), Conclusions on the implementation of the recommendations in respect of Montenegro subject to interim follow-up, 2020.

12 In line with UPR 2018 recommendation 105.100 on gender equality and women's empowerment, and 105.134 on discrimination against minorities.

13 See [https://www.rcc.int/balkanbarometer/inc/get\\_indic.php?id=68&cat\\_id=2](https://www.rcc.int/balkanbarometer/inc/get_indic.php?id=68&cat_id=2). In 2022, 64% of respondents either did not trust or tended not to trust the judiciary in Montenegro. Figures for the previous three years vary between 45 and 53%.

14 All references to Kosovo shall be understood to be in full compliance with United Nations Security Council Resolution 1244 (1999).

15 See Human Rights Action, Implementation of the War Crimes Investigation Strategy of the State Prosecutor's Office of Montenegro (2015-2021), 2021 <https://www.hraction.org/2021/07/03/implementation-of-the-war-crimes-investigation-strategy-of-the-state-prosecutors-office-of-montenegro-2015-2021/?lang=en>.

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17 Ibid and see also European Commission, Montenegro 2021 Report, pp. 23-24.

18 In line with 2018 UPR recommendation 105.37 on independence of the judiciary, 105.33 on investigating war crimes by those in positions of command, and 105.32 on training to prosecutors dealing with war crimes.

19 [https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/2020/06/Montenegro%20COVID-VAW\\_Report3.pdf](https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/2020/06/Montenegro%20COVID-VAW_Report3.pdf).

20 Statistical Office of Montenegro (MONSTAT), UNHCR, UNICEF, Multi Indicator Cluster Survey 2018 (hereafter MICS).

21 Ministry of Labour and Social Welfare, UNICEF, Evaluation of the Strategy on Prevention and protection of children from violence, 2017-2021.

22 In line with 2018 UPR recommendations on domestic and gender-based violence, 105.100, 105.109-110, 105.112-113, 105.115-117, 105.119 and on child protection 105.80, 105.125, 106.12, 105.123.



23 The first report of the Commission, 2021. Available at: <https://bit.ly/3MMC5iU>. The second report of the Commission, 2022. Available at:

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24 2018 UPR recommendations on women's participation, recommendations 105.104-107, and on political participation of vulnerable groups, 105.15.

25 Ministry of Human and Minority Rights, UNDP <https://pdfslide.net/documents/rodno-ogledalo-medija-u-crnoj-gori-unorgme-ogledalo-medija-u-projekat-finansira.html?page=1>. See also

[https://rodnamapa.me/assets/documents/women/documents/studija\\_o\\_rodnim\\_aspektima\\_sadrzaja\\_u\\_kulturi\\_cg.pdf](https://rodnamapa.me/assets/documents/women/documents/studija_o_rodnim_aspektima_sadrzaja_u_kulturi_cg.pdf).

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27 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25498>. For the Government responses, see

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=35644>,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=35645>,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=35649>,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=35650>.

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29 Recommendation 105.28.

30 European Commission, Montenegro 2021 report.

31 United Nations in Montenegro, Rapid Social Impact Assessment of the COVID-19 Outbreak in Montenegro, September 2021.

32 European Commission, Montenegro 2021 report.

33 In line with 2018 UPR recommendations 104.1 and 105.22 on investigating instances of torture. 105.22

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35 World Bank Systematic Country Diagnostic July 2021.

36 Strategy for Integration of Persons with Disabilities 2016-2020.

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<https://www.undp.org/sites/g/files/zskgke326/files/migration/me/undp-2020-mne-women-contribution-economy-report-eng.pdf>.

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